



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

**TO:** Judith Mogul  
Special 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.

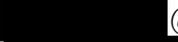
**TAKE NOTICE** that the examination may be recorded by stenographic, videographic and/or audio means.

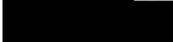
**TAKE FURTHER NOTICE** that Your disobedience of this Subpoena, by failing to appear and attend and testify on the date, time and place stated above or on any agreed upon adjourned date or time, **may subject You to penalties and other lawful punishment under** § 2308 of the New York Civil Practice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

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



STATE OF NEW YORK  
OFFICE OF THE ATTORNEY GENERAL

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

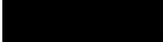
**TO:** Judith Mogul  
Special Counsel to the Governor  
Executive Chamber  
Capitol Building  
Albany, NY 12224

**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  
@ag.ny.gov  
@ag.ny.gov  
@ag.ny.gov

By: /s/ Anne L. Clark  
\_\_\_\_\_  
Anne L. Clark  
Yannick Grant  
Special Deputies to the  
First Deputy Attorney General  
@ag.ny.gov  
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## 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 Judith Mogul, Special 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

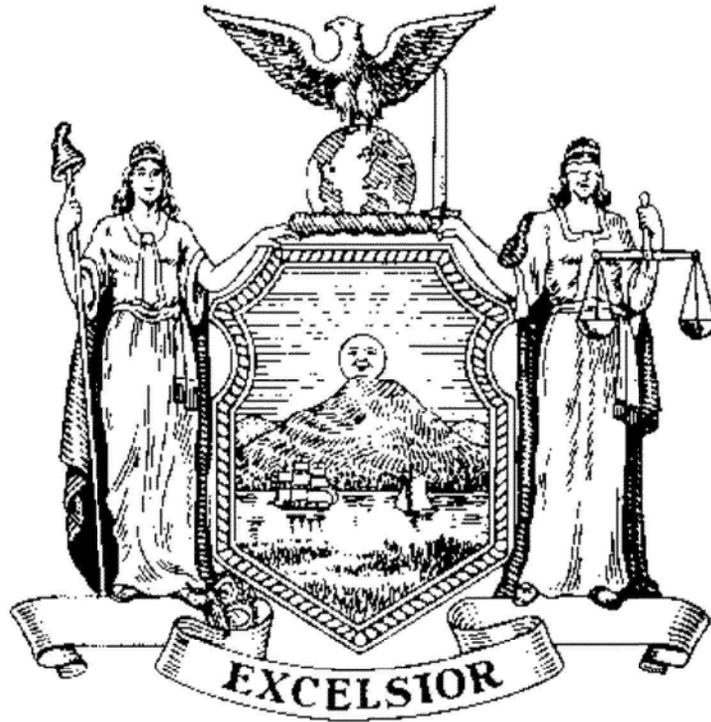
My commission expires: \_\_\_\_\_

2019 Mandated Trng Compliance

Organization Name	EmpID	EmpID	First Name	Last Name	Compliance Status	Completion Date	Original Date	Course Name	Course Code	Enrollment Status	Business Name	Phone Contact	Job Title	County	Session/Date	Course	Enroll	Access		
Employment Development Center			Alex	Altomare	Compliant	8/28/2019	1/13/2019	Sexual Harassment in the Workplace (2019)	GOER-SHW2019	COMP	Hall/Shaw	@gdned.ny.gov	Client Advocate		SHARES STAFF ASSIGNMENT	ES&Ops Ofc 5	N	@gdned.ny.gov		
Department of Agriculture and Markets			Debra	DeMarco	Compliant	9/16/2019	3/29/2019	Sexual Harassment in the Workplace (2019)	GOER-SHW2019	COMP	Waltham/Tracy	Waltham/Tracy	Assistant Director State Fair					N	@agriculture.ny.gov	
Department of Agriculture and Markets			Rosica	DeMarco	Compliant	9/16/2019	3/29/2019	Sexual Harassment in the Workplace (2019)	GOER-SHW2019	COMP	Brecon/Assess	Brecon/Assess	Business Assessor					N	@agriculture.ny.gov	
Department of Agriculture and Markets			Roslyn	Williams	Compliant	10/17/2019	9/6/2019	Sexual Harassment in the Workplace (2019)	GOER-SHW2019	COMP	Santamaria/Sustane	@agriculture.ny.gov	Economic Development Program 5						N	@agriculture.ny.gov
Department of Financial Services			Rachel	Connon	Compliant	10/28/2019	1/4/2019	Sexual Harassment in the Workplace (2019)	GOER-SHW2019	COMP	System,SIMS	GOES.NY.GOV	ASST Public Information Offic		OCG	DOCS MVO		N	@dfs.ny.gov	
Department of Financial Services			Bishop	Connon	Compliant	10/28/2019	1/4/2019	Sexual Harassment in the Workplace (2019)	GOER-SHW2019	COMP	System,SIMS	GOES.NY.GOV	ASST Public Information Offic		OCG	DOCS MVO		N	@dfs.ny.gov	
Department of Financial Services			Linda	Lackey	Compliant	7/24/2019	7/1/2019	Sexual Harassment in the Workplace (2019)	GOER-SHW2019	COMP	Longhough/Chad	GOES.NY.GOV	SUPT FIN SVS	Albany	EXE	SHARES		N	@dfs.ny.gov	
Department of Health			Patricia	Lawrence	Compliant	8/16/2019	3/2/2019	Sexual Harassment in the Workplace (2019)	GOER-SHW2019	COMP	Shelton/ny.gov	GOES.NY.GOV	ASST Public Information Offic		OCG	DOCS MVO		N	@health.ny.gov	
Department of Labor			Marilyn	Pagan	Compliant	10/15/2019	3/29/2019	Sexual Harassment in the Workplace (2019)	GOER-SHW2019	COMP	Malvin/Scott	GOES.NY.GOV	Special Assnt		EXTERNAL AFFAIRS/OUTREACH/ENR	WORK STATE OF HEALTH		N	@labor.ny.gov	
Department of Motor Vehicle			Danna	Ford	Compliant	3/27/2019	2/13/2019	Sexual Harassment in the Workplace (2019)	GOER-SHW2019	COMP	Kelby/Maghan	GOES.NY.GOV	Motor Vehicle Insp		TRAFFIC/VOI DIV	911B		N	@dmv.ny.gov	
Department of State			Michelle	Malone	Compliant	11/27/2019	3/2/2019	Sexual Harassment in the Workplace (2019)	GOER-SHW2019	COMP	Robles/ny.gov	GOES.NY.GOV	ASST Public Information Offic		OCG	DOCS MVO		N	@state.ny.gov	
Department of State			Rough	Pollock	Compliant	10/19/2019	3/1/2019	Sexual Harassment in the Workplace (2019)	GOER-SHW2019	COMP	Reads/Rosaria	GOES.NY.GOV	SECRETARY OF STATE		SECRETARY OF STATE	EXECUTIVE		N	@state.ny.gov	
Department of State			Patricia	Pollock	Compliant	8/2/2019	3/2/2019	Sexual Harassment in the Workplace (2019)	GOER-SHW2019	COMP	Robles/ny.gov	GOES.NY.GOV	ASST Public Information Offic		OCG	DOCS MVO		N	@state.ny.gov	
Department of Taxation and Finance			Matthew	Pavello	Compliant	10/1/2019	3/29/2019	Sexual Harassment in the Workplace (2019)	GOER-SHW2019	COMP	Paladino/Scott	GOES.NY.GOV	DR Legislative Affairs		LEG	TPA		N	@tax.ny.gov	
Division of Criminal Justice Services			Porfiria	Greco	Compliant	9/18/2019	3/1/2019	Sexual Harassment in the Workplace (2019)	GOER-SHW2019	COMP	Sheldrick/Jarrett	GOES.NY.GOV	ADJMY ASST	Albany	DRS	DOCS MVO		N	@dcjs.ny.gov	
Division of Criminal Justice Services			Barth	Greco	Compliant	1/2/2019	3/2/2019	Sexual Harassment in the Workplace (2019)	GOER-SHW2019	COMP	Sheldrick/Jarrett	GOES.NY.GOV	ADJMY ASST	Albany	DRS	DOCS MVO		N	@dcjs.ny.gov	
Division of Homeland Security and Emergency Services			Colin	Brennan	Compliant	11/19/2019	3/14/2019	Sexual Harassment in the Workplace (2019)	GOER-SHW2019	COMP	O'Leary/Terence	GOES.NY.GOV	DR Public Information		DRHS Council	HOMELAND SORRY and Emerg		N	@dhs.ny.gov	
Division of Homeland Security and Emergency Services			Lucha	Koontz	Compliant	3/1/2019	1/1/2019	Sexual Harassment in the Workplace (2019)	GOER-SHW2019	COMP	System,SIMS	GOES.NY.GOV	ADJMY ASST		DRHS Council	HOMELAND SORRY and Emerg		N	@dhs.ny.gov	
Executive Chamber			Aligail	Banker	Compliant	3/14/2019	1/15/2019	Sexual Harassment in the Workplace (2019)	GOER-SHW2019	COMP	System,SIMS	GOES.NY.GOV	Press Assnt		EXECUTIVE CHAMBER	EXECUTIVE OFFICE		N	@exec.ny.gov	
Executive Chamber			Winfred	Estlow	Compliant	11/29/2019	3/29/2019	Sexual Harassment in the Workplace (2019)	GOER-SHW2019	COMP	Grissola/Lauren E	GOES.NY.GOV	ADJMY ASST	Albany	ADJMY ASST			N	@exec.ny.gov	
Executive Chamber			Dennis	Gargan	Compliant	12/2/2019	3/29/2019	Sexual Harassment in the Workplace (2019)	GOER-SHW2019	COMP	Grissola/Lauren E	GOES.NY.GOV	ADJMY ASST	Albany	ADJMY ASST			N	@exec.ny.gov	
Executive Chamber			Kumil	Gibson	Compliant	3/29/2019	3/27/2019	Sexual Harassment in the Workplace (2019)	GOER-SHW2019	COMP	Grissola/Lauren E	GOES.NY.GOV	Counsel To Governor	Albany	ADJMY ASST			N	@exec.ny.gov	
Executive Chamber			Karyn	Kramer	Compliant	6/17/2019	3/29/2019	Sexual Harassment in the Workplace (2019)	GOER-SHW2019	COMP	Grissola/Lauren E	GOES.NY.GOV	ADJMY ASST	Albany	ADJMY ASST			N	@exec.ny.gov	
Executive Chamber			Lilian	Pedra	Compliant	7/22/2019	3/29/2019	Sexual Harassment in the Workplace (2019)	GOER-SHW2019	COMP	Grissola/Lauren E	GOES.NY.GOV	ADJMY ASST	Albany	ADJMY ASST			N	@exec.ny.gov	
Executive Chamber			Christopher	Rizzo	Compliant	12/1/2019	3/2/2019	Sexual Harassment in the Workplace (2019)	GOER-SHW2019	COMP	System,SIMS	GOES.NY.GOV	ASST Counsel To Governor		ADJMY ASST			N	@exec.ny.gov	
Executive Chamber			David	Shaw	Compliant	11/29/2019	3/29/2019	Sexual Harassment in the Workplace (2019)	GOER-SHW2019	COMP	Grissola/Lauren E	GOES.NY.GOV	ADJMY ASST		ADJMY ASST			N	@exec.ny.gov	
Executive Chamber			Luah	Spottner	Compliant	9/8/2019	2/16/2019	Sexual Harassment in the Workplace (2019)	GOER-SHW2019	COMP	Grissola/Lauren E	GOES.NY.GOV	ADJMY ASST		ADJMY ASST			N	@exec.ny.gov	
Executive Chamber			Shoon	Spottner	Compliant	4/30/2019	1/1/2019	Sexual Harassment in the Workplace (2019)	GOER-SHW2019	COMP	Grissola/Lauren E	GOES.NY.GOV	ADJMY ASST		ADJMY ASST			N	@exec.ny.gov	
Executive Chamber			David	Parino	Compliant	12/4/2019	2/14/2019	Sexual Harassment in the Workplace (2019)	GOER-SHW2019	COMP	Hunter/Joseph	GOES.NY.GOV	ADJMY ASST		ADJMY ASST			N	@exec.ny.gov	
NYS Gaming Commission			David	Parino	Compliant	12/4/2019	2/14/2019	Sexual Harassment in the Workplace (2019)	GOER-SHW2019	COMP	Hunter/Joseph	GOES.NY.GOV	ADJMY ASST		ADJMY ASST			N	@exec.ny.gov	
NYS Gaming Commission			Robert	Williams	Compliant	9/9/2019	2/14/2019	Sexual Harassment in the Workplace (2019)	GOER-SHW2019	COMP	Hunter/Joseph	GOES.NY.GOV	ADJMY ASST		ADJMY ASST			N	@exec.ny.gov	
Office of General Services			Alexandra	Benford	Compliant	6/29/2019	3/27/2019	Sexual Harassment in the Workplace (2019)	GOER-SHW2019	COMP	Marrett/Zachary	GOES.NY.GOV	ASST Public Information Offic		OCG	DOCS MVO		N	@ogsv.ny.gov	
Office of General Services			Robert	Benford	Compliant	6/29/2019	3/27/2019	Sexual Harassment in the Workplace (2019)	GOER-SHW2019	COMP	Marrett/Zachary	GOES.NY.GOV	ASST Public Information Offic		OCG	DOCS MVO		N	@ogsv.ny.gov	
Office of Information Technology Services			Andrew	Mitche	Compliant	1/15/2019	3/28/2019	Sexual Harassment in the Workplace (2019)	GOER-SHW2019	COMP	Callahan/J	GOES.NY.GOV	Program Assoc		ADJMY ASST			N	@it.ny.gov	
Office of Temporary and Disability Assistance			Michelle	Norris	Compliant	1/17/2019	3/1/2019	Sexual Harassment in the Workplace (2019)	GOER-SHW2019	COMP	Faria/Donna	GOES.NY.GOV	Special Assnt	Albany	EXE	DOCS MVO		N	@otda.ny.gov	
Office of Temporary and Disability Assistance			Michelle	Norris	Compliant	1/17/2019	3/1/2019	Sexual Harassment in the Workplace (2019)	GOER-SHW2019	COMP	Faria/Donna	GOES.NY.GOV	Special Assnt	Albany	EXE	DOCS MVO		N	@otda.ny.gov	
Office of the Inspector General			Courtney	Moretton	Compliant	9/13/2019	3/29/2019	Sexual Harassment in the Workplace (2019)	GOER-SHW2019	COMP	Shaw/Patricia	GOES.NY.GOV	Investigative Counsel		Office State Inspector Ga	Office State Inspector Ga		N	@otig.ny.gov	
Empire State Development Corp.			Max	Dubin	No Record	10/20/2019	3/1/2019	Sexual Harassment in the Workplace (2019)	GOER-SHW2019	COMP	Shaw/Patricia	GOES.NY.GOV	Investigative Counsel		Office State Inspector Ga	Office State Inspector Ga		N	@otig.ny.gov	
Empire State Development Corp.			Mary	Adelga	No Record						ADJMY ASST				EXECUTIVE CHAMBER	EXECUTIVE OFFICE		N	@otig.ny.gov	
Empire State Development Corp.			Emma	Al-Angari Peltzer	No Record						ADJMY ASST				EXECUTIVE CHAMBER	EXECUTIVE OFFICE		N	@otig.ny.gov	
Empire State Development Corp.			Sarah	Al-Angari Peltzer	No Record						ADJMY ASST				EXECUTIVE CHAMBER	EXECUTIVE OFFICE		N	@otig.ny.gov	
Empire State Development Corp.			Jose	Campanor	No Record						ADJMY ASST				EXECUTIVE CHAMBER	EXECUTIVE OFFICE		N	@otig.ny.gov	
Empire State Development Corp.			Carolina	Al-Angari Peltzer	No Record						ADJMY ASST				EXECUTIVE CHAMBER	EXECUTIVE OFFICE		N	@otig.ny.gov	
Empire State Development Corp.			Colin	Cohen	No Record						ADJMY ASST				EXECUTIVE CHAMBER	EXECUTIVE OFFICE		N	@otig.ny.gov	
Empire State Development Corp.			John	Crescimano	No Record						ADJMY ASST				EXECUTIVE CHAMBER	EXECUTIVE OFFICE		N	@otig.ny.gov	
Empire State Development Corp.			Colleen	Cohen	No Record						ADJMY ASST				EXECUTIVE CHAMBER	EXECUTIVE OFFICE		N	@otig.ny.gov	
Empire State Development Corp.			Borge	Cymon	No Record						ADJMY ASST				EXECUTIVE CHAMBER	EXECUTIVE OFFICE		N	@otig.ny.gov	
Empire State Development Corp.			John	Davies	No Record						ADJMY ASST				EXECUTIVE CHAMBER	EXECUTIVE OFFICE		N	@otig.ny.gov	
Empire State Development Corp.			Sarah	Donadei	No Record						ADJMY ASST				EXECUTIVE CHAMBER	EXECUTIVE OFFICE		N	@otig.ny.gov	
Empire State Development Corp.			Thomas	Fenney	No Record						ADJMY ASST				EXECUTIVE CHAMBER	EXECUTIVE OFFICE		N	@otig.ny.gov	
Empire State Development Corp.			Elizabeth	Conroy	No Record						ADJMY ASST				EXECUTIVE CHAMBER	EXECUTIVE OFFICE		N	@otig.ny.gov	
Empire State Development Corp.			Alexis	Gomes	No Record						ADJMY ASST				EXECUTIVE CHAMBER	EXECUTIVE OFFICE		N	@otig.ny.gov	
Empire State Development Corp.			Antonine	Hammont	No Record						ADJMY ASST				EXECUTIVE CHAMBER	EXECUTIVE OFFICE		N	@otig.ny.gov	
Empire State Development Corp.			Cardine	Hammond	No Record						ADJMY ASST				EXECUTIVE CHAMBER	EXECUTIVE OFFICE		N	@otig.ny.gov	
Empire State Development Corp.			Robert	Ladinski	No Record						ADJMY ASST				EXECUTIVE CHAMBER	EXECUTIVE OFFICE		N	@otig.ny.gov	
Empire State Development Corp.			Lucian	Ladinski	No Record						ADJMY ASST				EXECUTIVE CHAMBER	EXECUTIVE OFFICE		N	@otig.ny.gov	
Empire State Development Corp.			Rebecca	Lovullo	No Record						ADJMY ASST				EXECUTIVE CHAMBER	EXECUTIVE OFFICE		N	@otig.ny.gov	
Empire State Development Corp.			Amarda	Nazario	No Record						ADJMY ASST				EXECUTIVE CHAMBER	EXECUTIVE OFFICE		N	@otig.ny.gov	
Empire State Development Corp.			Michael	Donnell	No Record						ADJMY ASST				EXECUTIVE CHAMBER	EXECUTIVE OFFICE		N	@otig.ny.gov	
Empire State Development Corp.			Johanna	Perez	No Record						ADJMY ASST				EXECUTIVE CHAMBER	EXECUTIVE OFFICE		N	@otig.ny.gov	
Empire State Development Corp.			Pauline	Reardon	No Record						ADJMY ASST				EXECUTIVE CHAMBER	EXECUTIVE OFFICE		N	@otig.ny.gov	
Empire State Development Corp.			Toyamim	Rahman	No Record						ADJMY ASST				EXECUTIVE CHAMBER	EXECUTIVE OFFICE		N	@otig.ny.gov	
Empire State Development Corp.			Victoria	Reneau	No Record						ADJMY ASST				EXECUTIVE CHAMBER	EXECUTIVE OFFICE		N	@otig.ny.gov	
Empire State Development Corp.			Michelle	Reilly	No Record						ADJMY ASST				EXECUTIVE CHAMBER	EXECUTIVE OFFICE		N	@otig.ny.gov	
Empire State Development Corp.			Matthew	Sail	No Record						ADJMY ASST				EXECUTIVE CHAMBER	EXECUTIVE OFFICE		N	@otig.ny.gov	
Empire State Development Corp.			Edgar	Reardon	No Record						ADJMY ASST				EXECUTIVE CHAMBER	EXECUTIVE OFFICE		N	@otig.ny.gov	
Empire State Development Corp.			Sara	Songwa	No Record						ADJMY ASST				EXECUTIVE CHAMBER	EXECUTIVE OFFICE		N	@otig.ny.gov	
Empire State Development Corp.			Jason	Sutherland	No Record						ADJMY ASST				EXECUTIVE CHAMBER	EXECUTIVE OFFICE		N	@otig.ny.gov	
Empire State Development Corp.			Amelion	Ward	No Record						ADJMY ASST				EXECUTIVE CHAMBER	EXECUTIVE OFFICE		N	@otig.ny.gov	
Empire State Development Corp.			Rylee	Wheatler	No Record						ADJMY ASST				EXECUTIVE CHAMBER	EXECUTIVE				



**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/>.

## EMPLOYEE RIGHTS AND RESPONSIBILITIES

### 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."

## EMPLOYEE RIGHTS AND RESPONSIBILITIES

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.

## EMPLOYEE RIGHTS AND RESPONSIBILITIES

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.

## EMPLOYEE RIGHTS AND RESPONSIBILITIES

### **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.

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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.

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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.

## EMPLOYEE RIGHTS AND RESPONSIBILITIES

### **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.

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### **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.

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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.

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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.

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- (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).

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### **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;

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- 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."

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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

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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.

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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).

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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.

Hey there! It's Charlotte. Would you mind hopping on the phone sometime this pm for a quick check-in?

Of course. Ok if I include Jill? What time works for you?

Absolutely! Does 5 work? Or 7?

Let's do 7:00 if ok with you. I have a 4:30 that will go at least until 5:30

Okay great. 7 it is

①

Intro:

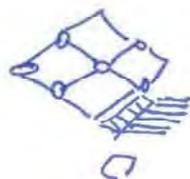
heard that she had an experience that made her uncomfortable - need to hear in her own words what happened exactly  
engage trial same way - no exceptions  
W

I addressed it pretty early - the planting of a seed - I feel like like this or ok - the transition has been good - taking step away

- The gov had a series of personal conversations - asked what I wanted to do professionally -

did a lot of work as my Campus Title IX - life changing moment -

got into a convo - felt comfortable as to how personal it was - but over course of a few convos - I felt it was taking a different direction.



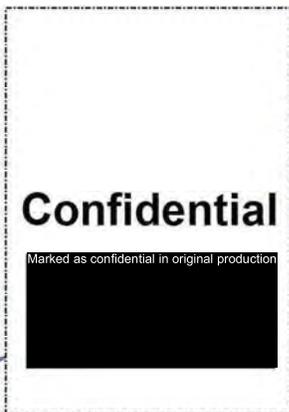
I was in his office - asked her for - asked to be key note speaker at Alma Mater -

talked about how I was sexually assaulted in college + over my life -

he kept say - you were raped you were raped - a person "some men just see women as little playthings"

→ strange - he had to know I was uncomfortable

rel w/ gov - how much contact - what kind how frequent how long in job - alone etc? discuss personal things? COVID? change staff? what incident day - when, where what - when was she sitting? where was he



exact words - what did you say - he say - touch - how did respond? other incidents / instances - unusual?

still

(2)

then he said he was lonely and look for a girl friend -

a few weeks later I ended up back in his office -

staffing - we were doing dictation + stuff finished chat -

brought up my speech - a k how it went - then said wait - turn off your tape recorder very long conversation -

Stephane - were you ~~the~~ working that whole time -  
what are you really about

look for a girlfriend -

not linear -  
he asked me about how being sexually assaulted affected the way I was attracted to men -

Jada  
Pindot  
Smith  
Chelna  
Handler

Sandy not talk to him / really had not  
lonely / had pushed  
not sleeping well / rumors in court -

find me a girl friend - "daughty's core?"  
he asked me how I felt about a girl difference  
→ he brushed off -

I think age ≠ matter > about 22  
he knew I was 25 (speech on B-day)  
I said like you daughter  
talked about monogamy -

3

asked about recent hookups

last serious situation  
he wanted to know who I had been  
seeing -

if I was sharing w/ other people  
if they were sharing w/ other people  
longest relationship since [redacted]

repeated

lonely -  
didn't know what to do  
get drunk  
got on motorcycle  
take a woman into the mountains -

forgot about pandemic for a few hours -  
I don't know how you have time for  
a relationship -  
privacy, ≠ a problem -

next day - just me - everyone else  
left -  
felt like a job loss to have  
he would find privacy -

he asked if I had found a GF for  
him yet -  
he said I looked like Taylor Dumas -  
& then he left

asked a lot of questions in my sexual  
history -

4

~~1/17~~ Incident Friday the 5<sup>th</sup> + Saturday the 6<sup>th</sup>  
Stalked in city on Tuesday 9<sup>th</sup>

a lot of Red flag -

do you know what a cone of silence  
is -

yes -  
we have had personal conversation

we have a cone of silence here -

blatant example of grooming -  
+ clearing -

Original conversation was June 10, followed 12<sup>th</sup> -  
Jill

Started Jan 2019 →

knives to  
direct contact w/ him - ?

no - more in my role stuff - got more work  
boundaries got ...

left in May - that's when I met  
him -

Staffing - means:

really stuff Steph - helps her  
manage calls / comments

he'll call - dictate - or make edit to  
work + manage the in + out

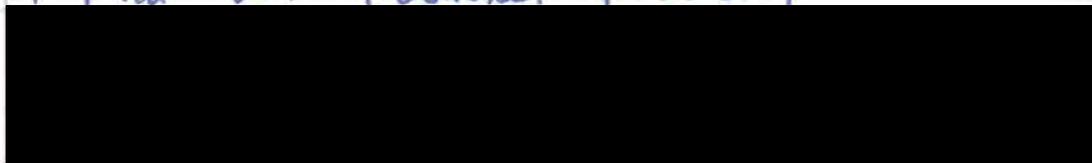
opt - 1/2 the week -

whenever he was in the city - I was at desk  
flew w/ him a few a times

First personal convo → first week I met him -  
asked me if I was single -  
why - "a lot of closers" - tried to make light of it

(5)

he asked me if I commit to this -  
I told him I commit to school



he asked questions -  
respectful -

pretty  
early  
first  
month  
or  
2

we could be chatty together -  
he is always interested in what people are  
up to - I was might train -  
talky mostly about the gym  
he asked me to do push ups for him -  
I was not uncomfortable -  
I did push ups until he told me to stop -  
technically a competition -  
he would say he would do 20 L  
back & forth -

Generally alone -  
more often than not speak there -  
person when speak there -  
more likely to chat when other not around -

more often - chats at end of work -  
talked about parents - lining up them - similar  
interests to my father - motorcycles -  
showed him  
YouTube video - longest plank ever

Soccer v. his daughter -  
own towns or don -

relationship status came up 1 or 2 more times -  
it was pretty brief -  
wonder if muscles being intimidated -  
ask about my training - "I don't bench press" -

enough is enough -  
derry bridge  
I went to his house to pick up a power point -  
writing in command center -  
he was in pool house -  
then look at PP - watch TV -  
seem bored - unfocused -  
chatty mood -  
he likes to gossip about office - a little bit raw  
what's going on - he knows he is a bit isolated  
no "so off" -  
I didn't say anything - I had nothing to say -

?

"tell me something" - anything -

in 2015 you signed enough is enough -  
it changed my life -  
I told him the story of my life -

how [redacted] as college  
how he sexually assaulted me  
how I reported it  
what happened in my life at  
my organization I started  
my investigation started a couple of months

7

after he signed the bill -  
spice reviews + under proposed -  
after midnight -> I started work at fed  
guidance state policy -  
research - ended up being my thesis -

Jon -  
how did he respond? - he was interested  
he asked a lot of Qs about why  
BF abusive -  
what I wanted to do long term -  
he wanted me to take a step back - not  
one bad experience -  
I told him I was [REDACTED]

Do you know what a love of silence is -

[REDACTED]  
if you do this for your career will always  
be fighting people in power - never win -  
you have to take power -

"That's why I am here"

That's why I am here - -

we talked about [REDACTED]  
didn't want to talk about it -  
he pushed her a lot -  
asked how it affected CB relationships w/ father  
he was very serious -  
[REDACTED]

my parents didn't support  
total shit show - had said it made

8

relationships stronger -

jm - handed in my did not make you  
uncomfortable -

Unusual to talk about my sex life -  
but not inappropriate  
very personal words that he took seriously -

Sunday afternoon around 2:00 before the  
budget speech -

jm - ~~other~~ other personal words before June

during Covid - did not see him until May -

7. first mtg was first  
took place - at Capital in his office -  
unusual setting -

lays on couch w/ feet up -

put down a folder - tried to turn out - (6:45)

he stopped you - still lays down - I am at door -

front of couch -  
he what are you doing - haven't seen you  
I've been here

how long -

60 days -

who is interested in you? - nobody - I deflected

I DK the phrase he used (sleeping with?)  
who are you hanging out with? - invited folks -

talked about gossiping about -

Are you going to many [redacted] -

Isn't he great - he's fantastic (G) Gonne pt married?

talked about [redacted] to - ...  
he asked me to sit down -  
he satt up -  
Coffee table pulled over a chair - on other side of  
Coffee table -

I mentioned to speech -> appropriate follow up  
to January convo -

I D'R spiritually -

Commencement Speech -  
for the women's college about my work -  
the what I was going to say -  
What are you thinking - say -

I said  
don't know if I brought up sexual violence  
few sentences -  
made a thoughtful correction -  
I said -

Showing up in spite of pain -  
not pain - injustice + betrayal -  
you were raped; you were raped; you were raped -  
you were abused -  
Pain + reprobate was very odd -

Men treat women as sexual play toys -  
felt odd  
didn't sit right w/ me - More than 3 times  
feels like you are not saying for my sake - to hurt -  
felt like a test - wants to see if he could sit  
under your skin -

by end of convo - it felt like a turning point

This is what you should say...  
 he gets up + moves to his desk -  
 still in chair - turned my body towards him -  
 he asked me to move a chair for  
 desk -  
 he continued his version of my speech -  
 it was so ~~odd~~ odd -

So then I said to him that one thing I  
 was thinking about when I was trying to write -  
 such a painful thing on a global  
 become greatest achievement

Pandemic - must be for him -

Showing up of this on hand -

My work at home - totally changed  
 world of life | an wonder of you or dog -

How do you think I am doing -  
 seemed insecure.

wonder about when to end -  
 exposed where people less interested in  
 business - can I do any differently?

Crazy

No -

Why in people loses interest -

"A lot - was fear + anticipation of clearly  
 maintain - deflated, tired - people less  
 went -

May Convo  
May 15 - Friday 6:45 am

11

We talked about what worked -  
what resonated  
"personal touches" - say him really  
experientially -  
genuine emotions - real New York -  
pugman scandal - kids getting sick  
fear star at mountain

first long tv 6# -

I said how are you doing -

Find + lonely -

wants to get on a bike <sup>with a woman</sup> go into a mountain  
with large convo -

Convo  
how -

Melissa came into the office - so he handed  
me pp

then to the team - threw them slide  
near fears -  
aggressive + repeated you were raped,  
you were a brand + inquiries

first time distressed -

November - had a bad week -

when he arrived a 633 - why are you saying  
you feel like that -

he didn't talk to me all day -  
didn't say anything - asked me why I was

Me

13

my hair -  
because messy -  
he walked away -  
I said "he doesn't like my hair" -  
upset + annoyed -

---

Next convo →

June 5

14

went into office of [redacted] - 1/2 dictation  
sent out - I stayed ~~at~~ -  
wearing masks -

Post tape recorder

Mask kept sucking his face -  
made a comment like predator -  
if someone asked me -

if I was being investigated for sexual  
harassment - she looks like a predator ->  
he was making a joke how his comment re my appearance  
how could you say I was sexually - strange comment  
word -

Post tape recorder -

talked about speech - I said it  
went really well - talked about sucking beef on  
Zoom - had champagne at the end -  
may have dismissed substance -

did she give speech he had recorded -> yeh -  
the speech that we wrote together

next topic

short break - not totally clear betw  
multiple conversations -

left + called back -

he brought his ex - before we got into Q's about  
my history -

find me a girlfriend ->

I didn't know what to say - fairly quick

no touch -

What about you - My pants don't let me  
have -

have -

I don't remember

Want to  
destroy  
myself -  
don't want to  
be alone -  
Jill has  
been  
amazing  
don't want to  
make waves -  
want to  
make as

~~Easy duties~~ -  
I pretended that  
I did -  
referenced my  
shorts -

K/S

talked about tattoos -  
birth day

I want this tattoo - silhouette of woman + flowers  
"put it on your chest or your ~~side~~ "huff"

does age matter? paused ready to go on and  
cut me off + said it didn't

you should have a party -  
then what

Groom =>

June 5 -

Coned Silence they  
do you know what this is -  
no one will know -

I won't say anything + you won't say anything -  
groom - when questions became more personal -

Sexual advm - no  
age difference  
specific age

Anything else -

Not that I can think of -

Anything else -  
he likes my make-up - we talked  
about on the Tuesday aft  
evening or Friday - she arrived + departed -  
Wings - buffer's to eye

TC w/ Charlotte Bennett + Jill Desrosiers

JJ: heard interaction that made you uncomfortable -  
know its difficult - but I need to understand  
exactly what happened - ~~not~~ important to tell the truth  
and tell me everything - everyone held to same standard

CB: what are you going to do

JJ: Don't know - don't know what happened

CB: I addressed it pretty early - the planting of  
a seed - I feel like things are OK  
the transition has been good - taking a step away

The Gov had a series of personal conversations  
asked what I wanted to do professionally  
told him I did a lot of work on my campus Title IX  
life changing moment -  
I felt comfortable with how personal it was  
but over the course of a few conversations I felt it  
was taking a different direction.

~~XXXXXXXXXX~~

May 15

A: I was in his office - he asked how I was  
doing then it was going. I told him I was asked  
to be the keynote speaker at my alma mater  
~~the~~ I talked about how I was sexually assaulted  
in college and over my life  
he kept saying "you were raped, you were  
raped": very aggressive - "some men just see women  
as little plaything" It was a slang comment. he  
had to know I was uncomfortable.  
then he said he was lonely and that he was  
looking for a girlfriend

Background:

Started Jan 2019 (same orientation as Jan)  
briefer - no direct contact  
once she started staffing him boundaries between  
briefer + staffer got

started staffing when [redacted] left in May 2019  
that's when I met him

Staffing means - really helping Stephanie staff -  
helps her manage calls, communication -  
he'll call, dictate, make edit to things he wrote  
Manage the ins and outs

about 1/2 the week - whenever he was in the city  
I was at the desk

I flew w/ him a couple of times

First  
Personal  
Convo

~~XXXXXXXXXXXXXXXXXXXX~~

First personal conversation? → first week I met him  
he asked me if I was single - asked me why -  
I tried to make light of it - said "then are a lot of losers"  
he asked me if I commit to things. I told him I  
commit to school. he said that didn't count - something  
else - I told him my [redacted]

he asked questions - it was respectful

Q - frequency of personal conversations?

we could be chatty together - he is always  
interested in what people are up to  
I was weight training - we talked mostly about the gym  
he asked me to do pushups for him - did that make you uncomfortable  
I was not uncomfortable - I did pushups until he told me  
to stop - we had a competition he would ask how many  
could do and then tell me he could do so more

Q - how often was you alone w/ him?  
more often than not Stephanie was there

Q personal convos when Steph there?  
~~the~~ sometimes - he was more willing to chat  
when others were not around

~~minutes~~  
Q - did he ever just call you in to have  
personal discussions?

Q topics?

most chats were at end of work  
we talked about my parents - I was living with  
them. ~~the~~ My father had similar interests -  
motorcycles -  
<sup>he + my</sup>

we talked about motorcycles  
I showed him a utube video of a man doing longest plank.  
we talked about soccer - I play soccer w/ his  
daughters. our towns are close

my relationship status came up one or two  
times - it was pretty brief - he said something  
about women w/ muscles being intimidating  
asked about my training - I told him I don't bench press

January 2020 (Sunday ~ 2:00 pm before Budget speech)  
Q - you referred to a convo about "enough is enough"

It was during budget. I went to his house to pick up a power point. I was waiting in the command center. He was in the pool house. He was there looking at the power point + watching TV. He seemed bored and unfocused - he was in a chatty mood - he likes to gossip about the office he is a little bit ~~isolated~~ isolated.

→ He always asks about different people or doing I didn't say anything. I had nothing to say. He said - "tell me something - anything" so I said - "In 2015 you signed enough is enough" and it changed my life." he said what do you mean. So I told him the story of my life. [REDACTED]

[REDACTED] how he sexually assaulted me - how I reported it - what happened with the investigation - the organization I started. My investigation started a couple of months after he signed the law.

Q - you told him law affected env?

The office was nervous + unprepared - after the inv. I started working at feel good + state policy I did a lot of research. It ended up becoming my thesis.

Q - how did he respond?

He was interested - he asked a lot of questions about abuse - about what I wanted to do long term he wanted me to take a step back - not let one bad experience define... I told him [REDACTED]

He said - do you know what a cone of science is? He told me [REDACTED]

→ Confidential behavior

→

he said if you do this for your career you will always be fighting people in power + never win. he said "you have to fake power"

I said that's why I am here

→ he said that's why am here -

We talked about how [redacted] - that she didn't want to talk about it. He pushed her a lot he asked me how it affected my relationship with parents. I lied. He was very serious. [redacted]

[redacted] My parents didn't support me. It was a total shit show - so I lied and said I made our relationship stronger

Q - handled in way that did NOT make you uncomfortable. It was unusual to talk about my sex life but not inappropriate. It was a very personal conversation that he took seriously

Q other personal convos before June?

May 15, 2020

It was during Covid - I did not see him until May. The first meeting was → [fine?]

took place at the Capitol in his office.

Q Leahy?

he was lying on the couch ≈ (6:45 am) feet up

→

I put down the folder + tried to run out - I am at the door - he stopped me she said P.J.'s → really digging + a sweatshirt step away

he said what have you been doing? I said "I've been here"; "For how long?" "60 days" - I haven't seen you -

→ who are you sleeping with? JM → did he say "sleeping with?" I don't know the phrase he used. who are you hanging with, he listed folks. talked about the group in the office. he said "are you going to marry [redacted]?" he said "Isn't he great?" I said he is fantastic. he said are you going to get married. I said "he has a serious girlfriend." we talked about [redacted] too I think.

he asked me to sit down. I pulled a chair over and sat on the other side of his coffee table. I mentioned I was going to give a speech. It was an appropriate follow up to our January conversation. I don't specifically recall how introduced. I don't know if I brought up sexual abuse - I said I was giving a commencement speech at the women's college about my work - he asked what I was going to say - he made a thoughtful correction that I used. I said something about showing up in spite of pain and he said not pain - injustice and betrayal.

→ ~~he~~ he said. "you were raped, you were raped, you were raped. you were abused. forceful, rape, etc. - it was very odd. then he said "Men treat women as sexual playthings." & didn't sit right with me. he said it more than 3 times. I said to myself "It feels like you are not saying this for my sake"

it felt like a test - like he wants to get under my skin. by the end of the conversation it felt like a funny point.

he said this is what you should say - he got up and moved to his desk and dictated what the speech should be. he asked me to move across from his desk he continued his version of my speech. It was so odd.

So then I said to him that one of the things I was thinking about was that such a painful thing can quickly become ones greatest accomplishment and that that's how the pandemic must be for him. Its showing up when things are hard. My work at Hamilton totally changed the course of my life. I told him I am wondering how you are doing. he said "how do you think I am doing?" he seemed insecure + he was crabby. he was wondering when to end the briefings. he expressed concern that people were less interested in briefings. he asked "Am I doing anything different?"

CB said no

he asked why are people less interested

CB offered - a lot was fear + anticipation of climbing mountain - they are now deflated, tired, less urgent. we talked about what worked, what resonated.

I said the "person to touch" - seeing him really experiencing it - showing genuine emotion - that he was a real New Yorker - people were scared, kids were getting sick. Fear of staying at the mountain.

Q - when did he introduce that he was looking for a girlfriend?

C/o asked "How are you doing?"

he said - he was tired + lonely and wants to get on a bike with a woman and go into the mountains - it was part of a larger conversation

→

ended when MDR came into the office. he handed her the power point and she ran to the team, threw the slide - she was ~~near~~ near tears - why?

→ he was aggressive, his repeated statement you were raped, abused, ~~abused~~

was this the first time you were distressed -

→ no - seems petty - back in November she was having a bad week and she had her hair [in a bun?] - he arrived at 6:33 and said why is your hair like that and then he didn't talk to her all day - then when having asked a peer why my hair was like that - as he walked away I said loudly so others could hear - "he doesn't like my hair." she was upset and annoyed.

next convo post 5/15

June 5

I went into his office with [redacted] - both wearing masks. [redacted] took first half of dictation and then left to transcribe - the mask kept sucking into my face - he made a comment that it looked like predator - he said if someone asked if he was being investigated for sexual harassment and he says "she looks like a predator" he was making a joke how his comment about my appearance - how would you say that was sexual harassment. It was a strange comment. After I finished dictation he asked how my speech went and then said turn off the tape recorder - which was OK because it was personal not work - we had a very long conversation. Steph asked - were you working that whole time? dictating? what were you talking about?

→ clarify/confirm w/ SDR

→ [UNCLEAR response]

When we talked about the speech. I said it went really well. We talked about how it sucks to be on Zoom. I told him I had [a bottle of?] Champagne at the end - we may have discussed the substance of the speech. He asked if I gave to speech we wrote together.

There was a short break - co in + out of office + doesn't know what happened before/ After she is not totally clear between multiple convos. he ~~said~~ brought up his ex - he said Sandy was not talking to him, that he was lonely; that he was not sleeping well. he said he was looking for a G.F. he told (C) she was in charge of finding him a girl friend

he asked her about how she felt about age differences + brushed off her concern and said age doesn't matter as long as she is about 22. he knew she was 25. Speak on her [REDACTED] bday C/S said like your daughters

→ we talked about monogamy → she did not think  
→ all that important. He asked how being sexually assaulted affected the way I was attracted to men  
he asked about recent hookups

he knew my [REDACTED] - he asked if that was my last serious relationship he wanted to know who I had been seeing - if I was sleeping with other people, if they were sleeping with other people. He wanted to know the worst relationship I had had since my ex.

[recalled later] ~~he wanted to know~~ he said it is hard not to hook up someone in months. I said are your daughters gone, he asked me and I said my parents wouldn't let me in the house because of Covid and

I had not even had a hug.  
The convo about the girlfriend was fairly quick,  
I didn't know what to say. I suggested Jaeda  
Pinkett Smith + Chelsea Handler. He said  
CH was crazy

Q Anyth' else you can recall?

We talked about Tattoos - my birthday I  
wanted to get a tattoo - w/ a silhouette of a woman  
and flowers - I was goin' to put on my back. He  
said put on your chest or ass. Ass? - he said "butt"

→ I said you should have a party

he ~

I had not even had a hug, the convo about the girlfriend was fairly quick. I didn't know what to say. I suggested Jaeda Pinkett Smith + Chelsea Handler. he said CH was crazy.

he repeated that he was lonely + didnt know what to do, he wants to get drunk and get on his motorcycle and take a woman on into the mountains and forget about the pandemic for a few hours.

CR said I don't know how you do that - how you have time for a relationship + would find privacy. he said privacy is not a problem.

Q - anything else?

We talked about tattoos - I wanted a tattoo for my birthday of a silhouette of a woman with flames - he was getting on my back and he said no, get it on your chest or ass. Ass? no - he said butt.

June 7

The next day - it was just me. Everyone else (MDR + Steph) left - it felt like a follow up to show me he could find privacy. He asked me if I had found a girl friend for him. He said I looked like daisy dukes + then he left.

There were a lot of red flags - he asked if I knew what a cone of silence was - I said yes - he said we can have a parent conversation - we have a cone of silence, that is a blatant example of grooming - charity!

I won't say anything - you won't say anything - when

questions became more personal.  
besides (line of) silence  
what made you uncomfortable  
the age difference ~~and~~ question and  
his picking a specific age.

→ did he evr make an ~~explicit~~ sexual  
advme - no

Did he evr touch you? -  
NO

~~anything else~~ -

Is there anything else you can think of?

→ he said he liked my makeup on ~~the~~  
5/9 when stalked in city - called me ugly -  
everything else was fine

Anything else I haven't asked - anything else  
Not that I can think of

→ I want to distance myself - I don't want  
others to become this n.s. thing. want to keep small  
Jill has been amazing  
I don't want to make waves  
I want to make as little of this as possible

Charlotte Bennett follow up w/ Jill

You wanted to speak again - not worth  
a whole call - increasingly anxious  
read the

Confidential

employee handbook - think there might need to be  
an investigation and am very anxious about that -  
do you know more yet?

[JM says piece]

everything you said I agree with -

I acted ~~the way~~ before anything happened  
JM - let me ask you - don't want words but it sounds like he was  
a supportive friend

we had a lot of meaningful conversations  
and I felt he was acting as my friend

Still feel that way -  
prefer new position

this is my dream job -

## Charlotte Bennett followup (w/ Jill)

Charlotte texted: Hey there! It's Charlotte. would you mind hopping on the phone sometime this pm for a quick check in?"

JM: you wanted to speak again?

CB: Not sure it's worth a whole call but I am anxious - need the ee handbook and am worried there might need to be an investigation. was wondering if you had further idea of what might happen next -

JM - Glad you called. Don't want you to be anxious. Have gone over everything you said. Am familiar w/ handbook. Here's what I think - want to make sure am understanding what she told us. - correct me if I am wrong. Really important that I not put words in your mouth - but my conclusion is that you had some very personal discussions with B that you were comfortable with and that at the point where you started to become less comfortable, you took control and acted to remove yourself ~~from the situation~~ "to address the situation" as you told us - before anything happened that you were concerned about.

CB - Yes - I agree w/ everything you just said. I was worried it might be going in the wrong direction - in a direction I didn't want - and I asked to be moved before anything bad happened.

JM: So ~~if~~ in that case, then there doesn't need to be an investigation because you are ~~not~~ saying she took any unwanted step.

CB: Yes

JM - Again don't want to put words in your mouth, but it

sounds to me like when you were discussing  
personal experiences of G he was acting as  
a friend, being supportive -

CB - Yes! We had a lot of very meaningful  
conversations and I felt he was acting as my friend -  
I still feel that way - that he is my friend -  
that's what makes this so hard. He is the  
Governor but he was also my friend - my  
job - it's very hard.

JM - just want to make sure you don't feel  
you were in anyway forced out of a job you  
would have preferred to stay in. No - this is  
my dream job. JM: OK because if you wanted -  
and it  $\neq$  sound like yours - we would arrange  
for you to keep that job and make sure you  
were comfortable - that you would not have to  
deal with him. No -  $\forall$

CB - I am so relieved - I was very anxious  
before I spoke to you. Now I feel so much  
better.

JM - Good - we don't want you to be anxious  
Jill and I always are -  
know you will do great things - want  
the state to be part of it.



# 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 replies 54 retweets 884 likes

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 replies 85 retweets 1K likes

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 replies 53 retweets 860 likes

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 replies 70 retweets 914 likes

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 replies 39 retweets 776 likes

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 replies 26 retweets 672 likes

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

29 replies 30 retweets 936 likes

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, A
-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 b
across the world
Trending with #pride LGBTQ

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People on Twitter are the first to know.



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Thread

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

View more replies

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

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
COVID-19: News and upda
New York

The New York Times · Ye:
'Disaster Girl' is 21 now an
made \$500,000 off the me

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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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### Relevant people

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

### What's happening

World news · Yesterday  
**Chinese government says t  
first human case of H10N3  
flu is unlikely to spread**

Trending in United States  
**Concorde**  
1,700 Tweets

Music · Trending  
**Olamide**  
24.2K Tweets

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

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

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Don't miss what's happening

People on Twitter are the first to know.

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Can we speak briefly about the twitter troll?

Ok. Call now.

Called you back b

Called you back

I have a 2:00 but free again at 2:30. Ty

Free anytime you are

In grocery store. Will call when I get home.

Just need 5 but hoping we can connect tonight

Was in the shower. Can talk now.

Lmk when good to reconnect on this issue. Ty

Can connect now.

Shoot. I missed this. Lmk when would work today. Just need 5

Ok. I am back to back until 330. How about then?

Perfect. Thx

Hi there. Need to talk as soon as your are up. Ty

Call me back when you are done.

she got along well of [redacted]  
went to work for [redacted] -

[redacted] - he would have interacted

Hates us  
hated place  
horribly run  
bad environment -

Chaotic -

putting things up  
casually -  
Come from with structure -

very little interaction w/ Gov - did

if [redacted] was in a meeting it was probably

don't remember Gov beat up on Lindsay

he was more playful w/ her

Lindsay = outlier -

sort of friendly other nuts -

friendly w/ Maggiore  
[redacted] -

[redacted] → always available -

probably got along w/ [redacted] -



**From:** "Melissa DeRosa" [REDACTED]@gmail.com>

**Sent:** Tue, 15 Dec 2020 21:14:05 -0500 (EST)

**To:** "Steven Cohen" [REDACTED]@yahoo.com>; "Linda Lacewell" [REDACTED]@gmail.com>; "Judith Mogul" [REDACTED]@gmail.com>

**Attachments:** Document1 (004).docx

---

**EXHIBIT**  
**10**

We are former employees of Governor Cuomo's Office now working in other jobs and pursuits. Collectively, we have served more than 20 years with the Governor. Dani Lever served as Director of Communications, Cathy Calhoun as State Director of Operations, and Alphonso David as Counsel. We have each worked with Ms. Boylan and have each been in the company of Ms. Boylan and the Governor on many occasions. Mr. David, as Counsel, was deeply involved in handling the Human Resources complaints against Ms. Boylan that led to her departure. We are also passionate and devoted supporters of civil rights and women's rights. We have spent years working to pass the most progressive state laws in the nation to protect women.

Ms. Boylan's time serving as an advisor to the Governor was marked by a series of actions and behaviors deemed by her coworkers to be abusive, disrespectful and inappropriate. Ms. Boylan served as an advisor to the Governor for nine months while she was an employee of and located at the Empire State Development Agency. In those nine months, there were no less than six women who lodged official complaints against Ms. Boylan including, African-American and white women, peers and subordinates. The official complaints stated that Ms. Boylan was "abusive", "disrespectful", "XXX," and had inappropriately fired a subordinate. The number and substance of the complaints (including ethical improprieties) were so troubling that the Empire State Development Authority went so far as to send a memo to Mr. David concerning the accusations.

In response to that memo, Mr. David met with Ms. Boylan with a female ethics counsel present, raised the complaints, and suggested counseling for Ms. Boylan, at which point Ms. Boylan became irate. She announced later that day that she was quitting. Several days after that, Ms. Boylan contacted Mr. David and said she had changed her mind and wanted her job back. Mr. David said that he thought that was not possible. Ms. Boylan then contacted the Governor's Office, saying that she "loved him" and needed to talk to the Governor. The Governor

was advised by Mr. David not to have any further contact with Ms. Boylan.

We understand that Ms. Boylan may be upset about the complaints made against her and losing her position in the Cuomo administration. That is to be expected. We also have no doubt that the Governor questioned her about her work. The Executive Chamber is a high-pressure, demanding organization which prides itself on integrity and performance.

But during the extensive conversations about Ms. Boylan's behavior, she never once mentioned anything inappropriate about the Governor's interactions with her. Indeed, the Governor has always treated us with dignity and respect.

Indeed, Ms. Boylan's inappropriate behavior was not limited to female colleagues. As professional women, we observed her interactions with male colleague and it was often unprofessional as well: sitting on people's laps and kissing them in public. Indeed, Ms. Boylan at one point had to apologize to one male staff member, who was highly offended by her behavior.

Ms. Boylan has recently announced her intention to run for political office. We do not believe that it is a coincidence that she makes these accusations at this time in order to draw attention to her campaign and obtain coverage in the press. We understand from credible sources that female members on her campaign team quit when they learned she would make such claims for purely political advantage.

We are not naive. We understand that politics, especially in the current environment, can be a nasty business. But claims like Ms. Boylan's motivated by political opportunism diminishes the rights and claims of all women, something we have fought to elevate and protect our entire careers.

--

Melissa D. DeRosa  
[REDACTED]

**From:** "Melissa DeRosa" [REDACTED]@gmail.com>  
**Sent:** Wed, 16 Dec 2020 11:21:43 -0500 (EST)  
**To:** "Linda Lacewell" [REDACTED]@gmail.com>; "Judith Mogul" [REDACTED]@gmail.com>  
**Subject:** Fwd:

---

We are former employees of Governor Cuomo's Office now working in other pursuits. We have served for a collective of over 20 years with the Governor. Dani Lever served as Director of Communications, Cathy Calhoun as State Director of Operations, and Alphonso David as Counsel. We have individually worked with Ms. Boylan and have been in the company of Ms. Boylan and the Governor on many occasions. Mr. David, as Counsel, was intimately involved in handling the Human Resources complaints against Ms. Boylan and her departure.

We are first and foremost aggressive supporters of civil rights and women's empowerment. We have spent years working to advance and legislate the most aggressive state laws in the nation to protect women. For that reason, we cannot stand by when a woman makes illegitimate accusations of harassment, as it diminishes the rights and claims of all women who are legitimate victims.

Ms. Boylan served as an advisor to the Governor for nine months while she was an employee and located at Empire State Development Agency. In those nine months there were no less than six complaints against Ms. Boylan. Six women made official complaints against Ms. Boylan, African American and white women, peers and subordinates. The official complaints stated Ms. Boylan was "rude", "treats them like children" and made them feel like a "punching bag", "degrading", "insulting", "harassing" and "a bully" and inappropriately fired a subordinate. The complaints caused the Empire State Development Authority, which was the entity that employed Ms. Boylan, to send a legal memo from its CEO and its Counsel, a woman, to Mr. David as Counsel to the Governor due to the severity of the accusations and ethical violations.

In response to the memo, Alphonso David met with Ms. Boylan with a female ethics counsel present, raised the complaints and suggested counseling for Ms. Boylan, at which point Ms. Boylan became irate and said she would consider quitting. She later that day announced she was quitting. However, several days later Ms. Boylan contacted Mr. David and said she changed her mind and wanted to return to her position. Mr. David said that was not possible. Ms. Boylan then contacted the Governor's Office and said that she needed to talk to the Governor. The Governor was advised by Mr. David not to contact Ms. Boylan given the situation and did not.

**EXHIBIT**

**11**

We understand that Ms. Boylan may very well be upset about the complaints made against her, losing her position in the administration and having no contact with the Governor. That is to be expected, traumatic and sad.

However, as far as Ms. Boylan suggesting that the Governor made inappropriate comments about her looks, which she characterizes as sexual harassment is concerned, she abuses all legitimate victims. We know from direct experience, the nature of the Governor, and the interactions between the Governor and Ms. Boylan, as we were present for most of their interactions.

Ms. Boylan claims the Governor made comments "about her looks". Ironic given that Ms. Boylan referred to the Governor as "handsome", and told staff that she "loved" the Governor. As professional women, we observed her interaction with the Governor, as well as other male staff members, on many occasions, in public and private, and we believe Ms. Boylan's conduct was unprofessional and inappropriate intimate behavior: sitting on coworker's laps and kissing them in public in the presence of other coworkers. Even to the extent that she felt compelled to send multiple text messages to apologize to one male staff member, who was highly offended, the day following such behavior.

During the extensive ethics conversations with Counsel about Ms. Boylan's behavior and appropriateness and how she felt she was treated by other people, she never mentioned anything negative about the Governor's interaction. Indeed, Ms. Boylan never made any complaint about the Governor for two years, until now, two days after she filed to run for political office as Manhattan Borough President. In addition, she makes these accusations against the Governor with no backup whatsoever. Also coincidentally, her political campaign consultant is also a consultant to a political opponent of the Governor, Jumaane Williams, who has said he is considering running against the Governor. Ms. Boylan is supported by lawyers and financial backers of Donald Trump: an active opponent of the Governor. We understand from credible sources that female members on her campaign team were offended and actually quit when they heard she and her campaign planned to make such claims for purely political advantage.

The political retribution against the Governor by Ms. Boylan comes as no surprise and was directly forecasted by her. In March, during the height of the COVID crisis, the Governor issued an Executive Order truncating the petitioning period and reducing the number of signatures mandated to run for public office. The order effected every political race in the state. However, Ms. Boylan assumed it was a personal attack on her and believed the change was not helpful for her candidacy for Congress challenging Congressman Nadler. Immediately thereafter, Ms. Boylan texted Robert Mujica, State Budget Director, "Absolutely not helpful please relay that while we are ok, I see what the point is here and I will find ways to respond. Life is Long. And so is my memory. And so are my resources." She texted Dani Lever, Director of Communications, at the same

time. "Absolutely not helpful specific response to a tragedy but please relay that while we are ok, I see what the point is here and I will find ways to respond to the message. The future is coming after assholes." Ms. Boylan's political motivation against the Governor was clearly premediated and purposeful.

We are not naive. We understand politics, especially in the current environment, can be a nasty and dirty business. We know the Governor understands that one must endure the slings and arrows to be in the public arena. But it demeans all women when allegations of harassment are made for political or extortive purposes. We encourage all women to come forward with valid complaints of harassment but not to use our advances in achieving new laws for personal animus, political gain or purely notoriety. False claims question the veracity of credible claims.

The Governor always treated us and every woman with whom we saw him interact with respect. Indeed, Ms. Boylan was right when she tweeted three weeks before her departure, "I'm proud to work for a Governor who takes women seriously". And another tweet, 12 days before her departure, "So proud of my boss Andrew Cuomo and all of Team Cuomo". She was also right when she tweeted, after she left, "Governor Cuomo is the best choice for Governor".

It is sad that political opportunism takes precedence over true political aspirations for progressive public service and advances designed to protect women in the workplace can be abused for unethical purposes.

█ and █ both raised why no men on sign on.

Ok

Who can help make these calls. Really hard for me while with him.

Fonz about to call me

This is the latest ...

12:50



[Redacted]

Premium InMail



TODAY



[Redacted]

• 11:40 am

**Deputy Director**

[Redacted], I am hoping we can have strictly confidential conversation about your brief work in 2016. Your name has come up in conversations I have had with several women last few days but those conversations were confidential so I cannot disclose precisely how. Please take a minute to look me up and if we can talk, my cell is [Redacted]

Yes, interested...

No thanks...

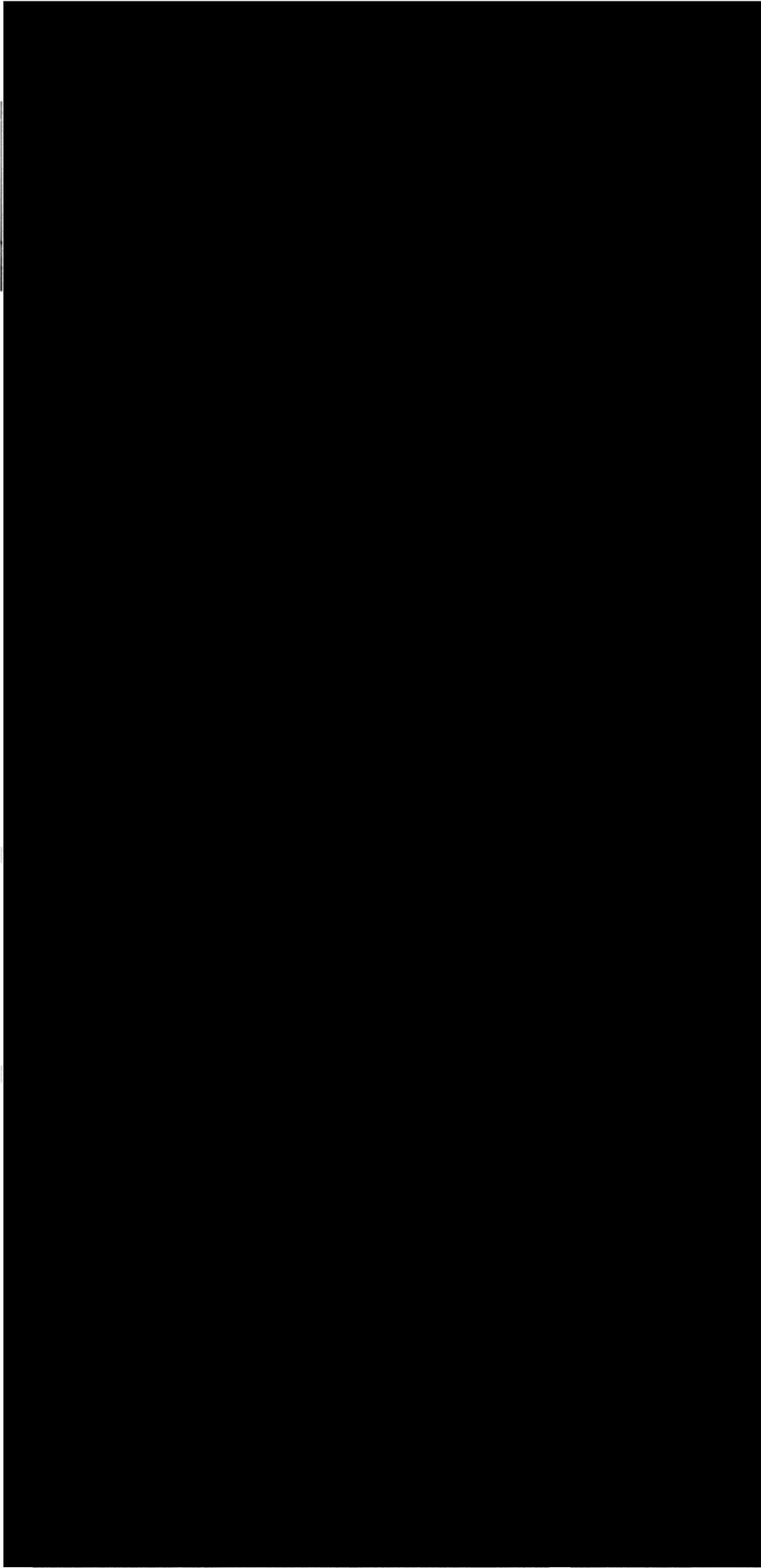


Write a message...





12:51



<https://twitter.com/lindseyboylan/status/1355301629822701568?s=10>





She's been going after me all day

And did w tweet w [REDACTED] in it





# Tweet

Lindsey Boylan Retweeted



**Lindsey Boylan** ✓

@LindseyBoylan



Can confirm. And we will have her back. There's no bottom with @NYGovCuomo @melissadderosa @RichAzzopardi



**Aaron Carr** @aaronAcarr · 26m

Sunday thoughts: There's a 100% chance Governor Cuomo tries to exact revenge on Tish James for the nursing home report and it will be important for us to have her back when he does.

Show this thread

1:27 PM · 1/31/21 · Twitter for iPhone

10 Retweets 18 Likes



Tweet your reply



Really dumb to loop you and rich into her hatred of AMC.

The depth of her nastiness and self delusion is bottomless.





# Thread



**Lindsey Boylan** 

@LindseyBoylan



One of @NYGovCuomo favorite things is being in front of the camera during a severe weather event. As long as he helps people across NYS I am glad he is doing this work.

This is not, however, a path to forgetting about the lies told about how seniors in NYS died in Covid.

5:37 PM · 1/31/21 · Twitter for iPhone

9 Retweets 1 Quote Tweet 67 Likes



**Denise Santoro** @bleuone · 1h



Replying to @LindseyBoylan and @NYGovCuomo

Tweet your reply







### Thread



**Lindsey Boylan**  @LindseyBoylan · 1h ...

If he "likes" you, you get a special "winterized" jacket with his version of the state logo on it as a holiday present. It's to wear to "storm" events. It's gross, predatory, and sad given how he uses inclement weather and also makes punishment and favor clear.



**Lindsey Boylan**  @Lindsey... · 1h

One of @NYGovCuomo favorite things is being in front of the camera during a severe weather event. As long as he helps people across NYS I am glad he is doing this work. ...

Show this thread



**Lindsey Boylan** 

@LindseyBoylan ...

Look out for it on camera tmrw worn by him and his "inner circle," of co-conspirators.

Tweet your reply



She's so obsessed

It's actually disconcerting

She misses us



Thread



Lindsey Boylan @LindseyBoylan · 1h

Remember, abusers don't maintain power on their own. They rely on a network of yes people to lie for them, hide their tracks, and reinforce the narrative of a false prophet at the expense of everyone else.

These yes people are part of the violence, the crime.

2 45 187



Lindsey Boylan @LindseyBoylan

Replying to @LindseyBoylan

Former colleagues: you know who you are.

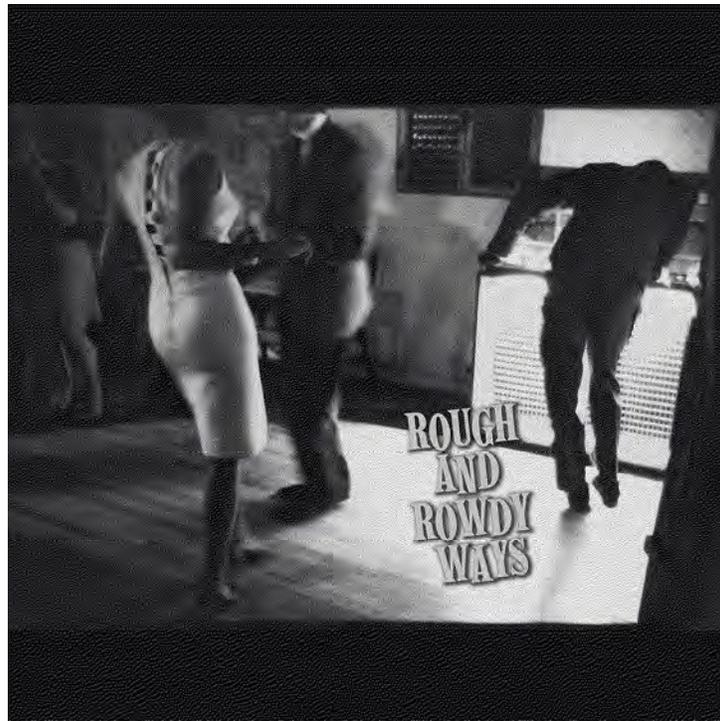
8:30 PM · Feb 1, 2021 · Twitter for iPhone

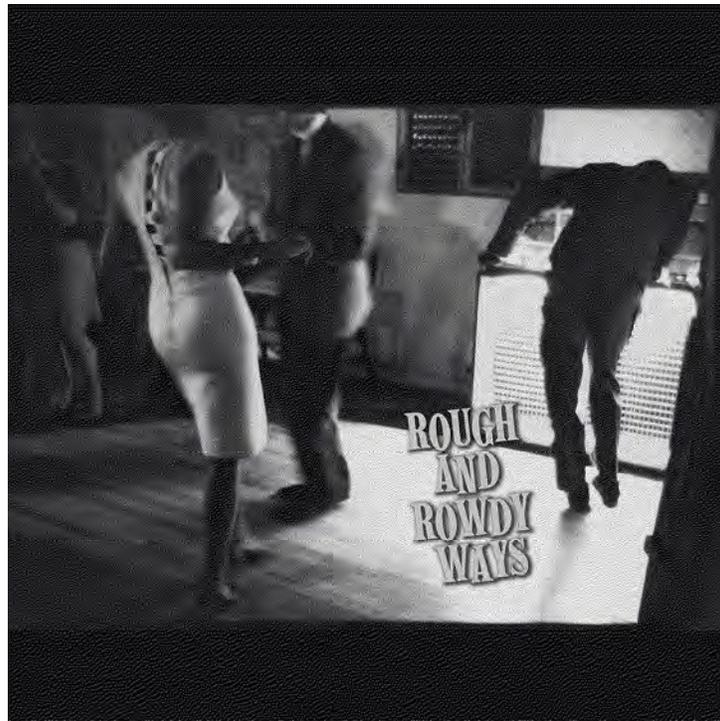
3 Retweets 49 Likes



Oh please

<https://music.apple.com/us/album/false-prophet/1512248541?i=1512248550>





“Controlled” is the operative word.

At this point it's hard to follow what she's saying. She's becoming L-Anon with no following.

She has really lost it and it only hurts herself. Threatening the press and lobbyists is not a winning strategy

We are tracking/saving all of these tweets, yes?

Yes

Judy says it's done daily

Who is Liz Joy? On OAN saying she is "victim of Gov Cuomo".

Never heard of her

Running for Congress.





Follow

**Liz Joy** ✓

@LizLemeryJoy

(R)(C) Fmr. 2020 Candidate for U.S. Congress  
#NY20 Wife. Mom. New Yorker. Love my family.  
Love my state. Love my country 🇺🇸 It's Time to put  
Joy back in NY!

📍 New York 🔗 JoyforNY.com 📅 Joined January 2009

2,615 Following 4,153 Followers



Followed by Molly Marcy, Morgan Mckay,  
Jack Rosen, and 10 others

Tweets

Tweets & replies

Media

Likes

📌 Pinned Tweet



**Liz Joy** ✓ @LizLemeryJoy · 2/3/21 ...

I survived a brutal assault during an attempted murder in August 2018. I fought off a man intent on killing his estranged wife, while I was a customer in a Salon. He was armed w/ knife & brass knuckles. I had months of recovery. He got 25 yrs Max. Security prison. Now I carry my

**Alexandria Ocasio-Co...** ✓ · 2/3/21

To survivors of any trauma who worry about being believed, or that their situation wasn't "bad" enough or "too



<https://twitter.com/caseyseiler/status/1324471354557714438?s=10>





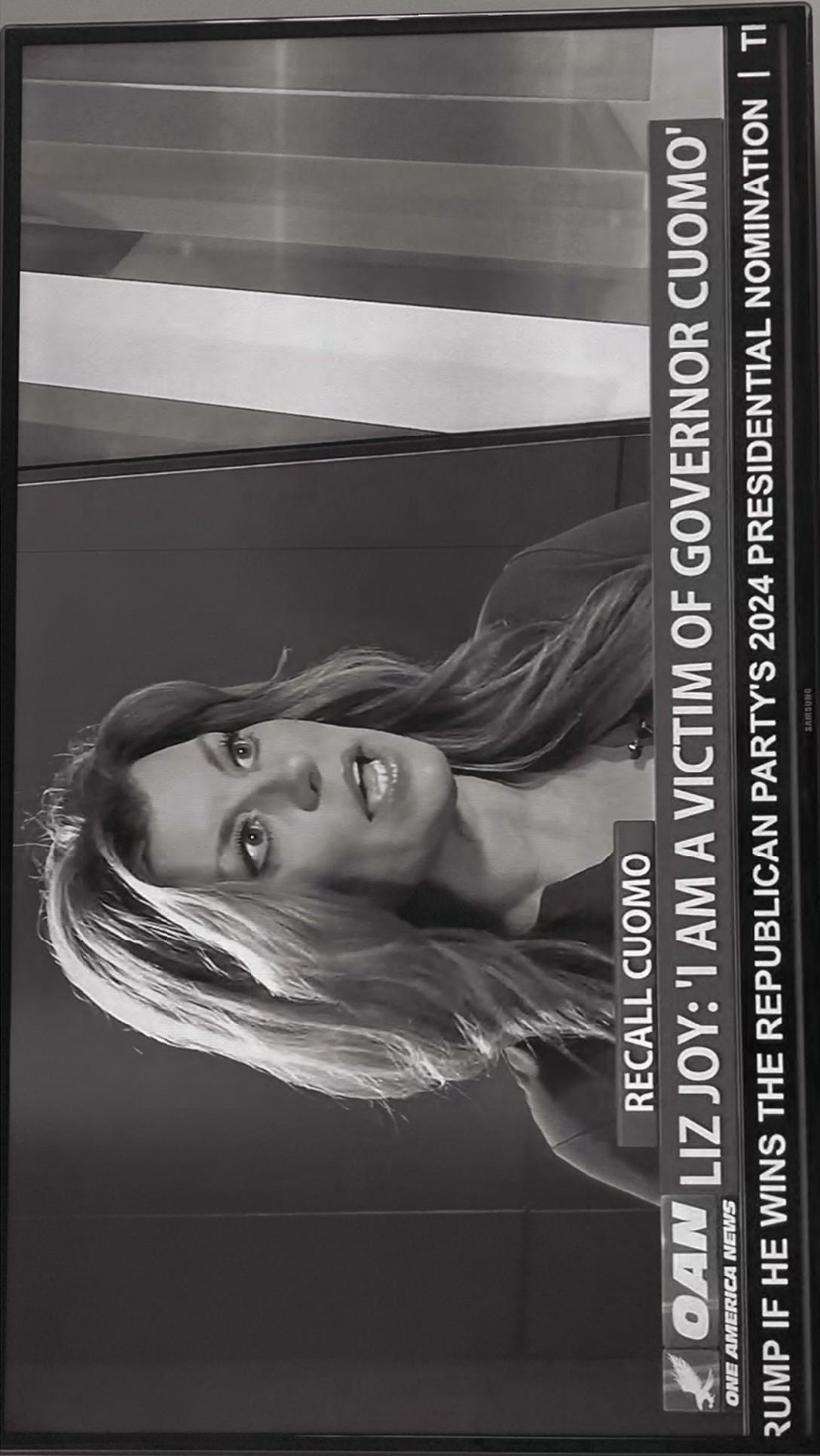












RECALL CUOMO



LIZ JOY: 'I AM A VICTIM OF GOVERNOR CUOMO'

RUMP IF HE WINS THE REPUBLICAN PARTY'S 2024 PRESIDENTIAL NOMINATION | TI

SAMSUNG



What did she say

I didn't hear it. Caught very end.

Must be bullying claim over her covid violation

Not it was inappropriate conduct. seemed to be he brushed against her. But I missed most.





# Tweet

Michael Kink Retweeted



**Lindsey Boylan**   
@LindseyBoylan



I am grateful for the support I've received since telling my story – not just from people in New York but across the country. When we show up & support victims, we make it easier for others to come forward. Only by shining a light on this kind of abuse will we be able to end it.

9:10 AM · 2/26/21 · Twitter for iPhone

113 Retweets 8 Quote Tweets 773 Likes



**Janice Dean** @JaniceDean · 10m  
Replying to @LindseyBoylan

Here for you. Thank you for being brave.



3

5

93



**Lib** @Lib74197601 · 3m



Tweet your reply



What is this?

Lindsay

What the shit

<https://twitter.com/breannamorello/status/1362124274396454914?s=21>

<https://twitter.com/breannamorello/status/1362124274396454914?s=21>





<https://twitter.com/joncampbellgan/status/1362197513613238284?s=10>



**Senator Rivera:** Yes, it was.

**Melissa DeRosa:** It was her question. I was trying to be responsive to her. You are now interrupting, so if you want to move on then we can move on. I apologize, Senator May. I am happy to talk to you about this afterwards. Senator Gustavo Rivera doesn't care about your question.

[Crosstalk]

**Senator Rivera:** It is true, we're actually far more like each other than either of us would like to admit. [inaudible] passive aggressive [inaudible].





# Tweet



Kaitlin



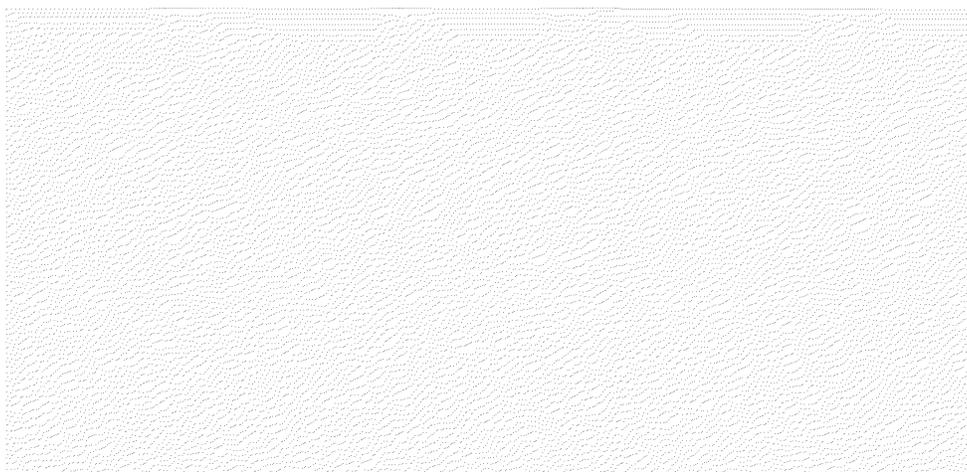
I've been on the receiving end of "I'll end your career". Enough is enough.

 Kaitlin  · 3d

The Sound and the Fury of Andrew Cuomo  
[newyorker.com/news/our-local...](https://www.nytimes.com/2021/02/20/us/politics/andrew-cuomo-sound-and-the-fury.html) via  
 @NewYorker

3:27 PM · 2/20/21 · Twitter for iPhone

10 Retweets 24 Likes



Tweet your reply



<https://twitter.com/kaitlin>



---

**From:** Linda Lacewell [REDACTED]@dfs.ny.gov]  
**Sent:** 2/24/2021 1:53:22 PM  
**To:** DeRosa, Melissa (CHAMBER) [REDACTED]@exec.ny.gov]  
**CC:** Azzopardi, Richard (CHAMBER) [REDACTED]@exec.ny.gov]; Ajemian, Peter (CHAMBER) [REDACTED]@exec.ny.gov]; Mogul, Judith (CHAMBER) [REDACTED]@exec.ny.gov]; Elkan Abramowitz [REDACTED]; Lis Smith [REDACTED]  
**Subject:** Re: Priv

Seems fine

Sent from my iPhone

On Feb 24, 2021, at 1:49 PM, Melissa DeRosa <[REDACTED]@exec.ny.gov> wrote:

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

In Ms. Boylan's latest blog post, she opens up with a story about a plane trip in October 2017 -- the manifests of all flights from October 2017 can be found below - there was no flight where Lindsey was alone with the Governor, a single press aide, and a NYS Trooper -- below is a statement that can be attributed to John Maggiore, Howard Zemsky, Dani Lever and Abbey Collins who were on all of these flights with her:

"We were on each of these October flights and this conversation did not happen."

[https://www.governor.ny.gov/sites/governor.ny.gov/files/atoms/files/October\\_2017.pdf](https://www.governor.ny.gov/sites/governor.ny.gov/files/atoms/files/October_2017.pdf)

**10/04/17 – Watertown Downtown Revitalization Initiative/ Southern Tier Lithium Ion Battery Giga-Factory Announcement/Western New York Smart Growth Community Fund Announcement**

**Passengers:**

Governor Andrew M. Cuomo  
John Maggiore, Director of Policy  
Dani Lever, Press Secretary  
Lindsey Boylan, Chief of Staff, Empire State Development  
Howard Zemsky, President and CEO, Empire S

**10/06/17 – Cortland Downtown Revitalization Initiative/Rochester Train Station Event**

**Passengers:**

Governor Andrew M. Cuomo  
John Maggiore, Director of Policy  
Lindsey Boylan, Chief of Staff, Empire State Development

**EXHIBIT  
15**

Abbey Fashouer, First Deputy Press Secretary

Protective Services incl. Sr. Inv. V. Straface

**10/12/17 - Cold Spring Harbor Laboratory Groundbreaking/Staten Island Fentanyl Crisis Announcement**

**Passengers:**

Governor Andrew M. Cuomo

Dani Lever, Press Secretary

Lindsey Boylan, Chief of Staff, Empire State Development

Howard Zemsky, President and CEO, Empire State

**10/17/17 - John R. Oishei Children's Hospital Dedication Ceremony/Syracuse Airport Redesign and Reconstruction Announcement/Norsk Titanium USA Announcement**

**Passengers:**

Governor Andrew M. Cuomo

John Maggiore, Director of Policy

Dani Lever, Press Secretary

Howard Zemsky, President and CEO, Empire State Development

Lindsey Boylan, Chief of Staff, Empire State Development

Protective Services incl. Sr. Inv. J. Boyle

**From:** Lis Smith [REDACTED]@gmail.com]  
**Sent:** 2/26/2021 12:01:02 PM  
**To:** Jeffrey Pollock [REDACTED]@globalstrategygroup.com]  
**CC:** Dani Lever [REDACTED]@gmail.com]; Mogul, Judith (CHAMBER) [REDACTED]@exec.ny.gov]; Lacewell, Linda A (DFS) [REDACTED]@dfs.ny.gov]; DeRosa, Melissa (CHAMBER) [REDACTED]@exec.ny.gov]; Cohen, Steven (ESD) [REDACTED]@esd.ny.gov]; Josh Vlasto [REDACTED]  
**Subject:** Re: Priv and Confidential

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

Melissa I thought th plan was now not to do this

On Fri, Feb 26, 2021 at 11:00 AM Jeffrey Pollock <[REDACTED]@globalstrategygroup.com> wrote:  
This doesn't feel different. I think someone needs to stop and do an outline of what needs to be accomplished.  
And if it were me, it would start with contrition not Boylan

Jeffrey Pollock  
President  
D [REDACTED]  
M [REDACTED]  
My pronouns: he, him, his

---

**From:** Melissa DeRosa [REDACTED]@exec.ny.gov>  
**Sent:** Friday, February 26, 2021 10:27:55 AM  
**To:** Linda A Lacewell (dfs.ny.gov) <[REDACTED]@dfs.ny.gov>; Judith Mogul [REDACTED]@exec.ny.gov>; Steven Cohen (esd.ny.gov) [REDACTED]@esd.ny.gov>; Josh Vlasto [REDACTED]@gmail.com>; Dani Lever <[REDACTED]@gmail.com>; Lis Smith [REDACTED]@gmail.com>; Jeffrey Pollock <[REDACTED]@globalstrategygroup.com>  
**Subject:** Re: Priv and Confidential

[EXT EMAIL]

My edits:

Let me address a couple of matters. First, the situation with Ms. Boylan and let me start by establishing the facts. I never physically touched her inappropriately. There was never a discussion about strip poker on the plane. There were four people crammed on the prop plane, all within earshot, and no one heard the comment because it was not said. As far as knees or feet or legs making contact during the flight, anyone who has been on the very small state plane knows that you are sitting across from each other and facing each other, making it virtually impossible not to be in incidental physical contact. There are also people sitting less than two feet across the aisle from you.

Ms. Boylan says I gave her a tour of my office— I often show people historical artifacts that I have collected overtime including gifts from Bill Clinton, Native Americans, my father, and historical mementos. It is, if you will, a standard tour. Many of you have seen it. The articles' significance is not beyond that which is apparent. The door is always open to my conference room because Stephanie sits about 10 feet away and this way she can hear me and I can hear her so we can communicate. The only time the door is ever closed is when we are having a legislative leaders meeting or a large group meeting.

EXHIBIT  
16

The door of my office in New York City is always open also for the same reason, whoever is sitting outside is always about 10 feet away and can relay calls, etc. In some ways I do this for my protection also. If anyone says anything inappropriate, I have a witness.

Ms. Boylan held a significant position and I always thought I had a good, professional and mutually friendly relationship with her. She showed talent and was hardworking. Ultimately, she had a number of issues with a number of colleagues and subordinates which were resolved by the counsel and HR office. They ultimately decided not to offer Ms. Boylan continued employment. At no time in discussions with anyone, including the HR staff, did Ms. Boylan suggest any inappropriate behavior by me.

I have not spoken to Ms. Boylan since she left 3 years and 5 months ago. She did, unsolicited, tweet that she supported my reelection and our administration's policies and team after she left the administration. On March 14 of last year, she did text members of my senior staff regarding an Executive Order that she believed negatively impacted her campaign for Congress at the time. The implication was the staff directed the policy at her candidacy directly. She was upset but her perception was not true. They were statewide reforms to address challenges of the pandemic.

Ms. Boylan says I touched her back and arm. I don't remember it but this may very well have been incidental. In general, my customary behavior is to greet people hello or say goodbye with a hug or a kiss. I kiss women and men hello or goodbye. I often greet staff and friends this way. I did an event in Queens the other day. I hugged the Assemblymembers and the pastors. In truth is it my usual custom. I have a picture hanging in my office kissing Al Gore. I've kissed Speaker Heastie and Senate Leader Andrea Stewart Cousins hello. Sometimes I kiss some reporters hello. You can go online and find pictures of me kissing and hugging hundreds of people. At least prior to COVID. A hug does make contact with an arm and back. Sometimes I get a sense when people are standoffish and I respect that. At no time did I kiss Ms. Boylan on the lips.

I spend most of my life at work and colleagues are often also personal friends. At work sometimes I am playful and make jokes that I think are funny. Some people do not find them funny or appropriate — my children tell me it's me being awkward. I do, on occasion, tease people in a good natured way and I do use nicknames. I call Robert Mujica the Sphinx. I call [REDACTED], I say Dr. Malatras is not really a doctor, I call Beth Bethesda. I do it in public and in private. You have seen me do it at briefings hundreds of times. I have teased people about getting married or not getting married, I've teased men about their choice of ties. I mean no offense and only attempt to add some levity and banter to what is a very serious business.

I also understand that customs change, and that sensitivity has changed and that what might be usual custom in the past is now found by some to be insensitive or too personal. I understand that norms have changed. I want to be hyper vigilant and exemplify that change.

I never meant any disrespect to Ms. Boylan and I am sorry if I made her feel uncomfortable. I am also sorry the relationship with the staff in the office did not work out.

People have commented on my office and staff. My staff are tough, motivated and top quality. My office is not for the faint of heart. It is high pressure, high stress, with high demands, and difficult circumstances. It certainly is

not for everyone. There are men and women alike who say that I am a demanding boss and my team is demanding and can be hard charging. They are right. It is a high pressure environment and we work seven days a week — it is very intense, serious, and grueling. And we believe the people of the State of New York deserve the best possible service, and we work obsessively to deliver the best service.

At the same time, I doubt you will find an elected official who has a longer serving staff of higher quality people. Just look at the situation during COVID. Larry Schwartz, former Secretary to the Governor, I've worked with for 30 years. Steve Cohen, former Secretary to the Governor – 30 years, [REDACTED] ..... Linda Lacewell came back from California. Jim Malatras, 14 years. Melissa DeRosa, [REDACTED], [REDACTED], Rich Azzopardi. They are intensely dedicated and committed to the mission. We are a bipartisan administration and have staff who crossed the aisle to come join my team, including Robert Mujica, Kelly Cummings and Beth Garvey.

##

In terms of conversations with legislators and politicians, I have a different attitude. Government is a serious business. The stakes are very high and making progress is often a fight and I believe I was elected to fight for the people. That's what I told them I would do. Indeed, that was my slogan since my Attorney General days. There is no change without a fight. Overturning the status quo is hard, but people demand change and I promised to deliver it. Marriage equality doesn't pass without a fight. The \$15 minimum wage doesn't pass without a fight. A woman's right to choose doesn't pass without a fight. Passing a budget doesn't happen without a fight. Building an airport is a fight. Fighting racism is a fight. Defeating COVID is a fight. I find some politicians are more interested in preserving the status quo or their own political careers and that some politicians are more interested in making headlines than headway. Conflict between politicians is inevitable if you actually want to get something done. These situations can get heated. That is the nature of the business.

I also hold politicians responsible. A politician who lies or attacks my integrity or accuses my administration of a crime, I will not take lightly. Nor should I. Nor should society. It is illegal. It is defamation. It does a disservice to the public.

The public doesn't trust politicians as a class – their integrity or capacity – and I try my best to restore the trust.

And to be totally frank, yes I challenge the press. I learned it from watching my father, who spent hours on the phone arguing in a raised voice with Jimmy Breslin and Jack Newfield. Sometimes it's bruising but I grew up believing it was part of the process.

This is not to say rudeness is ever acceptable. One can be direct and straightforward and truthful, but not rude. For any person who felt my staff or myself was rude to them, or for anyone who was offended, I apologize. The heat of battle does not excuse rudeness.

As far as judgement of my leadership is concerned, New Yorkers watched it for 10 years and for hundreds of hours last year. Good, impatient, annoyed, confrontational. They watched it all. I'm not perfect and they know it. But they know who I am – truly, and who I fight for.

These issues today do not operate in a vacuum but rather a vortex. Presidential politics, political extremism, many ongoing campaigns, COVID fatigue, lack of legislative engagement, economic stress.

It is all in the mix. COVID is politicized. The March 25 memo and nursing homes is politicized. The hearing yesterday had ad hominem attacks against Dr. Zucker and cited political polemics but no facts disputed his judgment. He followed the CMS and CMS still has their guidance in place. Yes, information to the public was slow but the circumstances were obvious and the grieving families were caught in the crossfire. Forget the drama. Follow the facts. Party politics is politicized with extremes on both sides. There is polarization within each party also – a new dynamic. I will work hard to bring down the temperature and focus on what we are elected to do – manage COVID, vaccinate New Yorkers and rebuild New York.

Thank you

---

**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**  
**17**

**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."

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 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)

[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.

**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)

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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.”

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

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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.

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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 -

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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:** Stephanie Benton [REDACTED]@exec.ny.gov]  
**Sent:** 3/14/2021 4:18:44 PM  
**To:** Jeffrey Pollock [REDACTED]@globalstrategygroup.com]; Ajemian, Peter (CHAMBER) [REDACTED]@exec.ny.gov]; DeRosa, Melissa (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]; Garvey, Beth (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: Privileged & confidential. Fwd: Time-sensitive comment request

Dial in for 5pm

[REDACTED]

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

---

**From:** Jeffrey Pollock  
**Sent:** Sunday, March 14, 2021 4:15 PM  
**To:** Peter Ajemian; Melissa DeRosa; Linda A Lacewell (dfs.ny.gov)  
**Cc:** Lis Smith; Josh Vlasto; Judith Mogul; Beth Garvey; Richard Azzopardi; Steven Cohen (esd.ny.gov); Stephanie Benton; Mitra Hormozi  
**Subject:** RE: Privileged & confidential. Fwd: Time-sensitive comment request

Ok so let's agree to talk at 5

---

**From:** Peter Ajemian [REDACTED]@exec.ny.gov>  
**Sent:** Sunday, March 14, 2021 4:12 PM  
**To:** Jeffrey Pollock <[REDACTED]@globalstrategygroup.com>; Melissa DeRosa <[REDACTED]@exec.ny.gov>; 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>; Beth Garvey <[REDACTED]@exec.ny.gov>; Richard Azzopardi <[REDACTED]@exec.ny.gov>; Steven Cohen (esd.ny.gov) <[REDACTED]@esd.ny.gov>; Stephanie Benton <[REDACTED]@exec.ny.gov>; Mitra Hormozi <[REDACTED]@wmhlaw.com>  
**Subject:** Re: Privileged & confidential. Fwd: Time-sensitive comment request

[EXT EMAIL]

privileged / confidential / draft

Here are some drafts in red for discussion. I will be out of pocket for the next 45 minutes, but can speak at 5pm.

**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."

Regarding allegation that this was at behest of Melissa, this can be attributed to Rich Azzopardi: "This is categorically false. There was no directed effort – this outreach happened organically when everyone's phone started to blow up."

Re allegation that the calls were "intimidation," from Rich Azzopardi: "False."

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

Something of ongoing reporting and fact checking calls

*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."

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The chamber takes full respon for releasing those records; it was totally appropriate.

**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?**

IGNORE

**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 spokesman: “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: “Jill oversaw events and scheduling, so it was her job to understand what senior members of the team would be attending Governor events.”

From a spokesperson: “To all outward appearances, Lindsey seemed to welcome being included in events with the Governor and being part of the Governor’s orbit.”

**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.**

Her interpretation of that is she’s being professionally diminished

What she described as a pattern of grouping together women in an ornamental fashion – that appears to be why she raised that anecdote

Her read was: the gov wanted Maria and Lindsey by his side “like dolls” was more important than anything she was doing workwise

-

From a spokesperson: “Lindsey was the subject matter expert, so of course the Governor would have asked her to join him during the course of a lengthy interaction with a member of media, especially one as respected as Maria Bartiromo whose beat encompassed Lindsey’s economic development portfolio.”

**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.**

IS THIS TRUE? DO WE COMMENT?

The context is that she puts this against the backdrop of an increasingly uncomfortable situation where boundaries were crossed, she felt pursued and not completely safe

Implication appeared to be: it was a question of whether in her time working for the gov had she been swimming in the pool, as if it were a normal thing that female staff would have done

Timeframe: late in her time working in NY government, maybe 2018 – would have been after she moved to the chamber

**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.**

TO DISCUSS

Ronan reached out to Abbey on this point. Has existing statement.

There's a bit of a logical inconsistency – specifically that the group statement says we were there and we can say for a fact this never happened

But when you talk to people about it, there's inconsistency as to whether people were there.

Do you want to maintain as an absolute that abbey was on the plane for all possible moments that it could have happened

She says abbey was next to her, remembers it because abbey was younger and pretty and would be vulnerable to it and had a fleeting thought of concern

I STAND BY MY EARLIER STATEMENT

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

PLEASE INCLUDE PRIOR STATEMENT FROM PRESS SECRETARY CAITLIN GIROAURD: "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**

Mdr screamed "what the fuck did you do?"

Boylan said she hung up.

An anecdote that traveled within the chamber

An exchange about a work matter

Against backdrop of the dissolution of the relationship

According to a spokesperson: "Lindsey repeatedly violated proper chain of command and communication by taking issues directly to the Governor instead of first discussing them with members of the senior team, as was the protocol. She had been admonished for this sort of behavior previously, but did it anyway, leading to a heated conversation with the Secretary."

**In not quite as late a period, there's an exchange she described with [REDACTED] in which she says she was fearful of the governor**

She was awaiting a Gov meeting at capitol

Waiting in [REDACTED] office and says she was frightened

[REDACTED] replied and said you've done mtgs with the gov a million times, why would you be fearful? because the gov liked her in a "different way"

Lindsey said to [REDACTED] that she was afraid of the Governor.

[REDACTED] replied, I thought he only liked blondes.

DRAFT if needed from [REDACTED] [trying to get this knocked out OTR]: "I respect every person's right to come forward if they have a concern, however if Lindsey has a recollection of an exchange as described, it did not involve me."

---

**From:** Jeffrey Pollock <[REDACTED]@globalstrategygroup.com>

**Sent:** Sunday, March 14, 2021 3:55 PM

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

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

**Subject:** RE: Privileged & confidential. Fwd: Time-sensitive comment request

My suggestion is once peter sends the stuff, we get back on the phone.

---

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

**Sent:** Sunday, March 14, 2021 3:48 PM

**To:** Peter Ajemian <[REDACTED]@exec.ny.gov>; Linda A Lacewell (dfs.ny.gov) <[REDACTED]@dfs.ny.gov>

**Cc:** Lis Smith <[REDACTED]@gmail.com>; Jeffrey Pollock <[REDACTED]@globalstrategygroup.com>; Josh Vlasto <[REDACTED]@gmail.com>; Judith Mogul <[REDACTED]@exec.ny.gov>; Beth Garvey <[REDACTED]@exec.ny.gov>;

Richard Azzopardi <[REDACTED]@exec.ny.gov>; Steven Cohen (esd.ny.gov) <[REDACTED]@esd.ny.gov>;

Stephanie Benton <[REDACTED]@exec.ny.gov>; Mitra Hormozi <[REDACTED]@wmhllaw.com>

**Subject:** Re: Privileged & confidential. Fwd: Time-sensitive comment request

[EXT EMAIL]

Can we give a global statement that includes the fact that she asked for her job back after she was confronted w bullying/harassment of 3 subordinates as well as colleagues?

---

**From:** Peter Ajemian

**Sent:** Sunday, March 14, 2021 1:05 PM

**To:** Linda A Lacewell (dfs.ny.gov)

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

**Subject:** Re: Privileged & confidential. Fwd: Time-sensitive comment request

Privileged / confidential / draft

Deadline:

Responses today would be much appreciated. If there's something substantial and factual that needs to be meaningfully disputed, he will hear us out and consider.

**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

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

SAYING SPECIFICALLY THAT MELISSA LEAKED HER FILES

Something of ongoing reporting and fact checking calls

*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."

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IS THIS TRUE?

**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 -

Tracked location – in reference to the Jill email, part of pattern, what she deemed escalating harassment.

Elaboration of claims she’s already made

**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.**

DIDN’T SHE OFTEN REQUEST THAT SHE FLY WITH THE GOVERNOR?

Her interpretation of that is she’s being professionally diminished

What she described as a pattern of grouping together women in an ornamental fashion – that appears to be why she raised that anecdote

Her read was: the gov wanted Maria and Lindsey by his side “like dolls” was more important than anything she was doing workwise

**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.**

IS THIS TRUE? DO WE COMMENT?

The context is that she puts this against the backdrop of an increasingly uncomfortable situation where boundaries were crossed, she felt pursued and not completely safe

Implication appeared to be: it was a question of whether in her time working for the gov had she been swimming in the pool, as if it were a normal thing that female staff would have done

Timeframe: late in her time working in NY government, maybe 2018 – would have been after she moved to the chamber

**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.**

## TO DISCUSS

Ronan reached out to Abbey on this point. Has existing statement.

There's a bit of a logical inconsistency – specifically that the group statement says we were there and we can say for a fact this never happened

But when you talk to people about it, there's inconsistency as to whether people were there.

Do you want to maintain as an absolute that abbey was on the plane for all possible moments that it could have happened

She says abbey was next to her, remembers it because abbey was younger and pretty and would be vulnerable to it and had a fleeting thought of concern

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

PLEASE INCLUDE PRIOR STATEMENT FROM PRESS SECRETARY CAITLIN GIROAURD: "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**

Mdr screamed "what the fuck did you do?"

Boylan said she hung up.

An anecdote that traveled within the chamber

An exchange about a work matter

Against backdrop of the dissolution of the relationship

**In not quite as late a period, there's an exchange she described with [REDACTED] in which she says she was fearful of the governor**

She was awaiting a Gov meeting at capitol

Waiting in [REDACTED] office and says she was frightened

[REDACTED] replied and said you've done mtgs with the gov a million times, why would you be fearful?

Lindsey said to [REDACTED] that she was afraid of the Governor.

[REDACTED] replied, I thought he only liked blondes.

Passing description of Lindsey being in a car with GAMC and hearing him scream at a prominent journalist because he was upset about a story – no specs on the journalist or the story – a characterization of the gov’s relationship with her and the press.

Mentions:

Jill

Stephanie

[REDACTED]

Melissa

Rich

---

**From:** Peter Ajemian

**Sent:** Sunday, March 14, 2021 11:40 AM

**To:** Linda A Lacewell (dfs.ny.gov)

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

**Subject:** Re: Privileged & confidential. Fwd: Time-sensitive comment request

Update: speaking to him at noon

On Mar 14, 2021, at 10:44 AM, Peter Ajemian <[REDACTED]@exec.ny.gov> wrote:

Privileged / confidential / draft

We’ve exchanged emails but he hasn’t called back yet - said he was on another call and would call me when he’s off. Started putting together notes for discussion because I fear we are not going to have a lot of time. Should we hop on phone now to discuss?

- 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.
  - CALLS TO WHO? WHAT WAS SAID? WHAT IS THE BASIS FOR THIS ALLEGATION?
- 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, 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 or misleading statements. Given the ongoing review by the State Attorney General, we cannot comment further at this time."

- 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?

- IS THIS TRUE?

- 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.

- WHAT SPECIFICALLY IS SHE REFERRING TO? DID SHE GIVE EXAMPLES?

- 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.

- DIDN'T SHE OFTEN REQUEST THAT SHE FLY WITH THE GOVERNOR?

- 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.

- IS THIS TRUE? DO WE COMMENT?

- 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.

- TO DISCUSS

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

- PLEASE INCLUDE PRIOR STATEMENT FROM PRESS SECRETARY CAITLIN GIROAUD: "As we said before, Ms. Boylan's claims of inappropriate behavior are quite simply false."

On Mar 14, 2021, at 9:12 AM, Laceywell, Linda A (DFS) [REDACTED]@dfs.ny.gov> wrote:

+ Mitra

Sent from my iPhone

On Mar 14, 2021, at 9:01 AM, Peter Ajemian [REDACTED]@exec.ny.gov> wrote:

Can someone please loop Mitra? I don't have her email.

Begin forwarded message:

**From:** Peter Ajemian [REDACTED]@gmail.com>  
**Date:** March 14, 2021 at 8:59:40 AM EDT  
**To:** Peter Ajemian [REDACTED]@exec.ny.gov>  
**Subject:** Fwd: Time-sensitive comment request

----- Forwarded message -----

**From:** Farrow, Ronan <[REDACTED]@newyorker.com>  
**Date:** Sun, Mar 14, 2021 at 8:57 AM  
**Subject:** Time-sensitive comment request  
**To:** [REDACTED]@gmail.com>

Hi Peter,

We're preparing to publish a story about Lindsey Boylan's claims about the Governor and I wanted to seek any information your office wants to share. Please send me any comments you'd like included today. I'm also available today to talk, at [REDACTED].

This story largely reiterates the account already narrated in Boylan's Medium post and other remarks.

Pertinent points are 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.
- She accuses Melissa DeRosa of leaking her personnel file and questions the legality of the leak. Do you or does Melissa have a response?
- 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.
- 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.
- 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.
- 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.
- She reiterates her claim that the governor kissed her on the lips in 2018.

Again, always welcome all information in the interest of keeping this fair and accurate. Would also be glad to be in touch more broadly about the wider unfolding story.

Thanks very much, Peter. Best wishes,

Ronan

[Redacted] + DL

Wolke's Privilege

has also spoken w/ her GC -

Additional -

for purposes of completeness -

Kaitlin conveyed that  
no business getting the job I did -

I was scooped up by the Governor  
at an event and I had no business  
getting what she did -

①

~~her age = experience -~~  
"I believe it was because of my appearance"  
remember I was only 27(?) years old at  
the time

②

Finally getting over the experience  
in fact she had kept notebooks  
re her experience that she had  
thrown out last spring -

LB - had resigned feelings she had  
had re the experience -



- 1) LB
- 2) Council
- 3) linked in / Staffer #6
- 4) Council

Spoken w/ L.B. she had retained LB  
counsel and has spoken a couple of times  
w/ LB counsel

linked in profile

Call w/ Staffer #6 -

contacted legal counsel note both -  
asks for advice -

group going together

there is a group of women coming together  
to make a claim - "up to 12 women" -

→ said in context of her consultation of the  
council -

did not ask why K coming to

5:00 pm / yesterday - 15 minutes -

she may have been recording

I thanked her for contacting me  
future updates -

Maybe - said - I haven't been contacted -  
"might"

"I'm sorry to hear that"

relationships →

My understanding -

K [redacted] brought to [redacted] -  
originally asked to work for [redacted] -  
when [redacted] score decreased -  
some time aft she came to [redacted]  
look for new place for her -  
[redacted] worked as if [redacted] would manage  
[redacted] - but she was better at it w/ [redacted]  
Kaitlin works for [redacted]

[redacted] said General statement - we have  
this person who needs a role - she came  
originally at request of Gov's office -  
because that became a default work  
experience for Kaitlin -

K [redacted] needs a new job. She came to us for  
Gov. office because of a default work  
exp. there. It seems that she had  
a particular difficulty experience but had  
time with the Governor on the basis of  
her physical appearance -

She did not have examples or  
sources of her information

Could have been [redacted] [redacted]

Convo was about 2 years ago

Primary engagement w/ K [redacted] is because she ~~dated~~ dating a member of team [redacted] - just left [redacted] a couple of months

very limited engagement professionally she did not come w/ particular expertise - but she has learned to contribute -

probably

Worked in current supervisor

[redacted] has made mention to me of her history - in context of her professional experience - I only understood based what [redacted] told me. I did not ask -

~~Did~~ Did [redacted] say anything specific about Gov's office? - NO

[redacted] now said anything to me - I am saying that she has spoken to him - based on my observations of their close relationship -

Do you know if anyone at Gov's office knows re issues of Gov office -> NOT know time line -

Does not know where [redacted] got it from -

reached out via gmail account -

hi [redacted] I know you are busy, but can we jump on a call (if you have 5-10 min) to discuss an urgent permit matter, preferably aft work -

Sent on Thursday during the day definitely - maybe 6:30  
on a call whenever you are available  
sorry I'm late -  
rescheduled yesterday at 5:00 -  
called -



Calm/neutral - not a lot emotion -  
dismissive a bit disgruntled -  
jumped out as odd -

strong interest in personal phone  
+ speaks aft hours -

2 minds - it occurred to me that this topic could be one - or maybe [redacted] -

Not most qualified person -

[redacted] was following her social media -  
active presence -  
observed her making statements potentially damaging to the former -  
I had her twitter flagged - very

very activist employee -  
a bit of activist organizer -

---

Spoke to the GC [redacted]  
right after call -

Spoke to communications Mgr who flagged  
K's tweet - asked her to continue to  
monitor -

We agreed that I would reach out to Beth

No discussion

apartment

from the top

17 minutes

5:00

I contacted her:

Hi [redacted] as you know I worked for  
Gov prior to going to [redacted]  
for a period of time  
work environment was chally  
in particular in part I believe on my opinion  
after all I was at the time  
and I had no big hang the job in  
the first instance - Gov. Swooped me up  
at an event -

as an example of her per - Gov asked me  
to search for auto parts on line while  
wearing a skirt ~~as~~ as he watched me  
from behind.

(Discusi flowed ~~at~~ not normally  
expert -

Next I'm sure you've seen recent  
press re LB  
I want you to know that I spoke  
to LB + her counsel  
want you to know I learned  
counsel myself -

~~was~~ I spoke to the counsel <sup>same</sup>  
~~several~~ times over past ~~few~~ days  
because I saw that LL +  
AG Walsh had searched my  
~~link~~ linked in  
and the call w/ **Staffer #6** about  
whether I had spoken to reporters  
A group is going together to  
make a clam - I think it would up  
to 12 people

**[Redacted]** clarified the names - I asked if she  
contacted LB or LB contacted  
" **[Redacted]** - I contacted LB "

when - I want you to know, as  
I expect that you will hear from  
Gov's office...

→ **[Redacted]** I have not heard  
I know what Gov. office is capable  
of - I really want to keep my job

Not a great connect -

and I hope you will help you do that.

She acknowledged that I may need to speak to people because of this convo - I really know you don't have to talk to [redacted] [redacted] because I don't want <sup>to</sup> this to go to [redacted]

Did not sound nervous.

I expected convo to conclude -

I hope you know I needed to leave Gov's office + get out of there. I was miffed on my way to Newbury - in fact I had thrown out notebooks I was keeping in my experience this spring - the Development with heady - when she saw developer ports it brought this back in a way she had not expected to have to grapple with again.

pleasantries about [redacted] + those  
- thank you for calling and ph  
keep me up to date -

JM. No Retaliation -

No comments re social media -

Kailin is not in NY -

need to give her same  
accommodations that others are  
given



**Redacted: Privileged**

Redacted in original production

1/4/21

Telephone of [REDACTED]  
- explain heard she made a sexual h. allegation - <sup>Need to look into it -</sup>  
- Cont. speak to her  
I don't have much information  
for you -

Kaultin had a difficult experience  
when she worked at Chamber -  
never went into any details -

no understanding of sexual  
harassment -  
never used that term

"difficult reaction to the environment" -  
that's all -

EXHIBIT

20

# Redacted: Privileged

Redacted in original production

Per steph

political event -

when gov. spoke to her  
and felt she must be able to  
help us in office -

as a co-entry to Steph -

after [redacted] left in  
December

an attempt to try + get Steph not to  
live in NYC

How did she get moved off -  
it didn't work

he knew it  
she knew it -

EXHIBIT  
21

he said - you are not being fully  
utilized in this position - I want you  
to go work as [redacted] chief of staff  
where can reach potential -

Not a strong personality - not confident -  
couldn't handle people she had to deal w/



Jill

Kentico ...

she didn't do the job for very long -  
I remember

Why did she move in first place - off desk -  
no recall -

I remember her not being happy - wanted to do policy -  
made up scheduling system to manage schedule  
~~she worked~~

don't think ~~she~~ working @ her at all -

after going to work w/ [redacted] → only work on desk  
for a pinch - nothing re her appearance  
don't remember any directed at her -

Jill asked her areas she was interested in -

[redacted] → gave her options - she wanted [redacted]

Jill asked [redacted]  
? duty [redacted] maybe?? →

[redacted] - crabby self in events - meetings  
in the office -  
tough time w/ the team - yes - real nemesis  
was [redacted] - not for -

Could have interacted w/ Lindsey - <sup>travel to events</sup> Lindsey [redacted]  
Got [redacted] - look for event people who [redacted]  
mentioned - she was unhappy - she wanted <sup>expressed out</sup> - run  
own shop - not how we are organized - [redacted] included  
not learn - [redacted] + Ball in her hand

no  
knowing  
what  
[redacted]

How she got bus - for Met her at a  
Fundraiser

She had worked for [redacted] + she was working for [redacted]

If you want to come work in front  
you should come in for an interview -

[redacted] had just left -

Bronx Tile Fundraiser -

Per Annabel -

Met Kaitlin @ [redacted] Christmas party  
Maybe same night as [redacted] -

[redacted] told him how great she was -  
Steph told Annabel that he wanted  
met someone he wanted to hire +  
Steph and Annabel sat with her.

MDR - When was event - ? 12/12/16

Benefit from 12/12/16

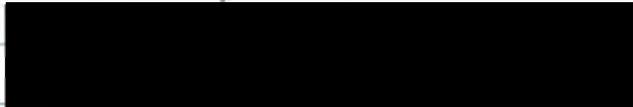
12/30/16

[redacted]

[redacted] - organizer of women's  
march.

[redacted] stayed event

Pictures of aunt



in pic

12/28

fm 17/07 Kelly re Kaitlin

KC knew K [redacted] - she was nice -  
not terribly bright -  
aft she was demoted she didn't  
have enough work + came to Kelly to  
ask if she could help her -  
gave her K bridge light show - firm out  
a scheme for 365 days - all holiday  
etc...  
demoted because she couldn't do  
work - no stress - zero - that she had  
had any negative contract (C)  
SOMC - no trauma - no harassment -  
no sense of any issue at all -

[redacted] Redacted: Personal Information

[redacted] Redacted in original production

Redacted: Personal Information

Redacted in original production



oo

Kentler joined [redacted] from Chamber

~ 2018 - If I had to guess -

I don't recall every say that -  
I don't recall why she left -  
I had an impression that somebody

you've never had a conversation with  
her about experience in Chamber -



[redacted] called me and asked that  
in find a plan for someone exit Chamber  
did in her role for her -  
brought her in pretty quiet  
had a sense - time search  
for affairs - changed role  
good employee

Had an impression that somebody  
had gone away -

To be honest she is  
misremembering  
that I don't believe (would have said)  
I didn't know her role

Kaitlin

1/14/21

Per

Kaitlin put [redacted] on the phone heightened emotion -

he described his conversation w/ Kaitlin words sexual harassment was used - reacted strongly

Kaitlin's emotion - [redacted] was special for her - she wanted to know what they had spoken to

change

[redacted] explained ethical rule - she is adamant that she has not retained counsel -

she has never used the term sexual harassment



reiterated not within [redacted] pursued -

when any employee makes a claim has to be reported - and needs to be investigated - ~~and~~

[redacted] going to call me back + reiterated that Kaitlin has not made a claim of sexual harassment - they spoke to [redacted]

(What she is saying today is markedly different than what she said several weeks ago - / Significant change of heart)

M needs to say completely

1/14/21

[redacted] redms w/ Linda  
per [redacted] - You guys are really upset w/ her  
Caitlin asked for call/copied [redacted] -  
[redacted] and Caitlin both on call  
[redacted] describe

Someone from Chambers name Judy Mays  
had ID'd that I was reach out to him  
because Caitlin may have discussed w/ him  
calling him  
and represented by counsel

mentioned that Caitlin said that  
she had been sexually harassed -  
[redacted] wanted to set record straight  
that K had never used the  
words sexual harassment and  
not tipped by counsel  
spoke to counsel

[redacted] asked if he had been contact  
for [redacted] he suggested they reach out to [redacted]

Caitlin debated not retained counsel  
had not used term sexual harassment  
Governor very hard person to work for  
and she had gone thru some trauma/trauma  
work for the Governor  
But she does not understand any of the  
actions of the Gov. Sexual Harassment  
Caitlin - both say - lies being told about me  
[redacted] - Why are these lies being said about  
Caitlin - that she had not retained  
counsel + had not used the words sexual h.

Why is Chamber calling my boss -  
This is what they do -  
This woman named **Staffer #6**  
had reached out to her  
**Staffer #6** not even w/ Chamber -  
w/ MTA &

Positive only about me and that I worked  
for **[REDACTED]**

~~She~~ The only other person I talk to  
is Mujica & we only talk about Jossy  
because both low judge -

Should I just call Judy?  
**[REDACTED]** I can't advise

**[REDACTED]** I am going to call her back to  
make clear that Caitlin has not returned  
Council -

You guys are really on

Who did you speak to Chamber?

not at liberty to say

**[REDACTED]** Policy is if any claim  
related to harassment in would report it up

**[REDACTED]** Employees are getting calls from Chamber  
so it is **[REDACTED]** business -

per



first discussion markedly different -

JM: - wanted to speak to him directly -  
 Behin in direct command +

perfect example  
 thru game of telephone seemed to be  
 missed connections

I had a convo w/ Carl in re our call  
 returned straight

A) she has not retained counsel  
 fine for me to speak directly to her  
 (JM)

she did speak to a lawyer  
 after a call w/ Chamber - but not  
 return

JM ?? - Someone named Staffer #6 -  
 asked to re press  
 I DK what happened in call

B) She is adamant that she <sup>has not</sup> made  
 claim of sexual harassment or any other that -

both know pressure cooker - not  
 suited to everyone - not suited to her  
 but not claiming harassment -

Bad environment

but not claiming harassment -  
not gone to pass -

and do not intend to go to pass

what she wants is

She wants him to go away -  
she doesn't want to be on the wrong  
side of the bus here -

JM: Only goal is to reassure her

Great

great employee for me - just wants to  
move on

concerned her about comments that  
I made re counsel + SH -  
neither of which came from her -

JM going to call her -> w/ someone else

?? - too much - more than average -

miscommunication - want some else

on call

Phone Interview of Kaitlin [REDACTED]

On January 15, 2021 at 1:47 p.m., a phone call took place between: Judy Mogul (Chamber); [REDACTED] (Chamber); [REDACTED] and [REDACTED]. The following is a summary of the conversation:

At 1:46 pm, Judy conferenced in by telephone [REDACTED] and [REDACTED]. [REDACTED] attempted to then conference in Kaitlin but the conferencing did not work at first. [REDACTED] then provided to Judy the following number for Kaitlin so that Judy could try to conference her in: [REDACTED]. Judy then conferenced Kaitlin in at 1:47 pm.

During the conversation, the following was discussed:

- Judy identified for Kaitlin the parties on the phone, identifying herself [REDACTED] and Kaitlin.
- Judy told Kaitlin that there was no reason to be anxious, and that this call was to reassure her (Kaitlin). Judy stated that she heard there had been a lot of miscommunication and that she understands that Kaitlin does not have a lawyer.
- Kaitlin replied that she had recently learned that “someone misspoke” and “gave the wrong information.” Kaitlin added that she “did not say that,” (writer’s note: referencing an allegation of sexual harassment against the Governor) and that she does not have an attorney. She stated that she has tried to be transparent to [REDACTED]. She stated she had “no intention of taking this further” or getting a lawyer. She stated she was grateful for this phone call.
- Judy stated: “Are you saying you were not the subject of sexual harassment?”
- Kaitlin replied that she was not sexually harassed, and stated “I’ve said this from the very beginning. Its just not true.” She stated she was frustrated that misinformation had been messaged up.
- Judy replied that there was no need to apologize and it was regrettable that this situation has caused her (Kaitlin) distress. With respect to the sexual harassment allegation, Judy stated that she had a responsibility due to State law to understand if there were any further steps for her (Judy) to take. Judy added that she appreciated the clarification from Kaitlin and there was no need to apologize.
- With reference to a prior conversation with [REDACTED], Kaitlin stated her intention in speaking with [REDACTED] was so she “doesn’t look like she’s hiding anything” and she just “wanted to put this on their radar.”
- [REDACTED] stated that he had talked to Kaitlin and felt that “it was important for [REDACTED] [writer’s note: [REDACTED]] to know.” Then, [REDACTED] looped in [REDACTED] [writer’s note: [REDACTED]] and then things got confused.”
- Kaitlin stated that S #6 [writer’s note: Staffer #6 [REDACTED]] had reached out to her, so that’s why Kaitlin had originally spoken out on the subject.

*Attorney Client Privileged/ Attorney Work Product/ Privileged & Confidential  
Inter/Intra Agency Deliberative Process*

*Draft*

*January, 15, 2021*

- Judy again stated that there was a series of miscommunications. Judy asked Kaitlin if there was anything else she wanted to say.
- Kaitlin replied, no. She reiterated that the “two things said are not true.” Kaitlin asked Judy to reach out to her directly if anything comes up.
- Judy replied she would and told Kaitlin the same as well in that Kaitlin could reach out to her.
- ██████ thanked Judy for the phone call.
- All parties said goodbye and hung up the phone.

Tweets Tweets & replies Media Likes

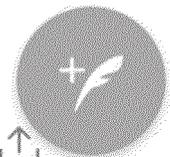
[REDACTED] Kaitlin [REDACTED] [REDACTED] · 1d ...

Hey @LindseyBoylan sorry I deleted my previous tweet supporting you. I got scared. I still believe you, I still think you should keep talking, and I still believe men like him shouldn't be in positions of power. Rooting for you every day.

   1 

[REDACTED] Kaitlin [REDACTED] [REDACTED] · 1d ...

Time to let the toxic boyfriend go — Coercive control is a form of abuse that describes a pattern of behaviors a perpetrator uses to gain control and power by eroding a person's autonomy and self-esteem. This can include acts of intimidation, threats, and humiliation.

 1   5  

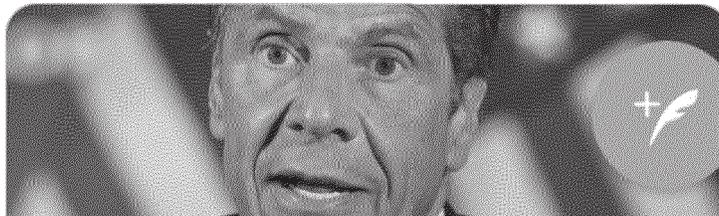
Tweets Tweets & replies Media Likes

[redacted] Kaitlin [redacted] · 51m ...  
I've been on the receiving end of "I'll end your career". Enough is enough.

 Kaitlin [redacted] · 50m  
The Sound and the Fury of Andrew Cuomo  
[newyorker.com/news/our-local...](https://www.newyorker.com/news/our-local...) via @NewYorker

  6  17 

[redacted] Kaitlin [redacted] [redacted] · 53m ...  
The Sound and the Fury of Andrew Cuomo [newyorker.com/news/our-local...](https://www.newyorker.com/news/our-local...) via @NewYorker



<https://twitter.com/joncampbellgan/status/1366495591698751488?s=10>

she got along well of [redacted]  
went to work for [redacted]

[redacted] - he would have interacted

Hates us  
hated place  
horribly run  
bad environment -

Chaotic -

putting things up  
casually -  
Come from with structure -

very little interaction w/ Gov - did  
if [redacted] was in a meeting it was probably



don't remember Gov beating up on Lindsay

he was more playful w/ her

Lindsay = outlier -

sort of friendly other nuts -

friendly w/ Massimo  
[redacted] -

[redacted] → always available -  
probably got along w/ [redacted] -

Priv - This is what's new: -Ms. Bennett alleges there are other former female staffers who have contacted her in recent days who were transferred to new positions when they alleged Gov. Cuomo harassed them.

This is for CBS



2:53



◀ Block Puzz...



Coming your way



Inbox



**Lindsey C. Boylan** 2:53 PM



to **Annabel Walsh**, me ▾

Annabel and Dani,

I have often thought of you recently and what sad, depressing, and soulless people you both are. I thought about you when I have spoken with victims recently and how followers like you enable the worst harms of humanity. It's just so depressing to think about you both. It must be even more depressing to be you.

Lindsey Boylan

<https://www.harpersbazaar.com/culture/features/a35725702/lindsey-boylan-speaks-out/>

↩ Reply

↩ Reply all

➦ Forward

This is harassment

This is on Twitter. These two women work on the 2nd floor :(

6:01 PM Fri Feb 26

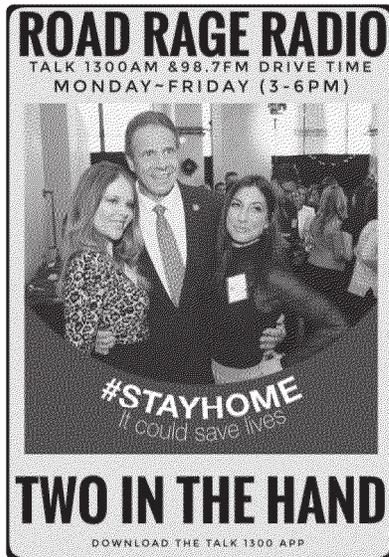
- 
- 
- 
- 
- 
- 
- 
- 
- 

Tweet

Steve McLaughlin liked

**Kevin McCashion**   
@Kevin\_McCashion

back in the bush  
with the birds at 2 pm  
(special start time today)



6:50 AM - 2/26/21 - Twitter for iPhone

3 Retweets 22 Likes

[Tweet your reply](#)

Who are they?

One is my old assistant Alyssa who now works for [REDACTED] but is often in front office helping EA #3 and EA #2

[Footnotes on laptop -  
deleted (lost notes)]

Call from EA #3 + EA #2 -

Tearful -

Brittany told them Gov had hugged +  
touched her -

want to do right thing - she told us details  
JM - want to inquire with Brian Pismo  
lawyer

Called w/ Beth -

Starts Monday - asked what she thought  
of Gov. remarks -

uncomfortable -

said he had hugged her -

seemed uncomfortable when w/ us about  
Charlotte -

Charlotte -

Saturday night -

dinner of Alyson + Brittany -

confided in EA #2 -

had hugged her -

once at Mansion -

slammed door - pushed her up  
against wall - hands up shirt - touched  
breast, kissed her -

worried about her job

They are worried about their job



EXHIBIT  
30

Brian Premo -

Beth, Judy, Mitia -  
representing Brittany  
Beth we need to speak w/ her -

now understand whether we had  
a policy in place -

I'm going to talk w/ her today -

very little training -  
very little disclosure

serious allegation

EEO Complaint

not ~~was~~ aware of that  
and what training she had

Beth - facts relayed to us 3rd hand  
physical contact such that there could  
be a crime -

most aggressive touching -  
did not push against the wall

JM - encourage her to go to police -  
We have an obligation irrespective  
she was not aware of portal -  
shaking my head - don't know how

EXHIBIT

31



that could possibly be -

litra

Here's what I am trying to do -  
I don't want anything run to media -  
leads, name, mentioned -

• until she discloses -

until

That's up to her -

To: Michael Volforte (goer.ny.gov) [REDACTED]@goer.ny.gov]

Cc: Judith Mogul [REDACTED]@exec.ny.gov]

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

Sent: Mon 3/15/2021 12:00:17 PM Eastern Daylight Time

Subject: Complaint as we discussed

Attachment: nys-employee discrimination-complaint-form.pdf

---

Please see attached, available to discuss at your convenience.

Beth Garvey  
Acting Counsel to the Governor  
Governor Andrew M. Cuomo  
[REDACTED]





Governor's Office of Employee Relations  
 Anti Discrimination Investigations Division  
 Empire State Plaza  
 Agency Building 2  
 Albany, New York 12223  
 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 (initially) and 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, 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  
 Anti Discrimination Investigations Division  
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<b>Full Name</b>		<b>Preferred Email Address (for complaint related communications)</b>	
Beth Garvey on behalf of Brittany Commisso		[Redacted]@exec.ny.gov	
<b>Agency/Employer</b>	<b>Title/Business Unit/Facility</b>	<b>Work Schedule (days/hours)</b>	
Executive Chamber/Lt. Governor	Special Counsel/Senior Advisor	Mon-Sun 9-5+	
<b>Work Location/Address</b>		<b>Work Phone #</b>	
Room [Redacted], The Capitol Albany, NY 12224		[Redacted]	
<b>Home Address</b>		<b>Personal Phone #</b>	
[Redacted]		[Redacted]	

## Section 2: Supervisory Information

<b>Immediate Supervisor Name</b>	<b>Title</b>
Lauren Grasso (Ms. Commisso's)	Office Administrator
<b>Work Location/Address</b>	<b>Work Phone #</b>
Room [Redacted]	[Redacted]
<b>2nd Level Supervisor Name</b>	<b>Title</b>
[Redacted]	Chief of Staff
<b>Work Location/Address</b>	<b>Work Phone #</b>
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### 2. Your claim of discrimination is made against:

<b>Name 1</b>	<b>Title</b>	<b>Work Phone</b>
Andrew Cuomo	Governor	[Redacted]
<b>Agency</b>	<b>Facility/Work Location</b>	
Executive Chamber/Lt. Governor	The Capitol Albany NY 12224	

**Relationship to you:**  Supervisor  Co-worker  Subordinate  Other → Please Specify:

<b>Name 2</b>	<b>Title</b>	<b>Work Phone</b>
<b>Agency</b>	<b>Facility/Work Location</b>	
	The Capitol Albany NY 12224	

**Relationship to you:**  Supervisor  Co-worker  Subordinate  Other → Please Specify:



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.

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Beth Garvey

Signature

Digitally signed by Beth Garvey Date: 2021.03.11 17:48:07 -05'00'

03/11/21

Date

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Empire State Plaza Agency Building 2 Albany, New York 12223 antidiscrimination@goer.ny.gov

March 5<sup>th</sup>, 2021

Judith Mogul  
Special Counsel to Governor Andrew M. Cuomo  
633 Third Avenue  
New York, NY

Judy,

It is with a heavy heart that I tender my resignation effective Friday, March 19<sup>th</sup>, 2021.

I am incredibly proud of my work with the Special Counsel team over the last two years, particularly during the pandemic and last summer's racial reckoning. Under tremendous pressure and while working punishing hours, we faced each seemingly impossible challenge with creativity and camaraderie. In an effort to protect New Yorkers, we jumped in wherever there was a need, from vetting the credentials of 80,000 medical volunteers to standing up a Vaccine Complaint Investigation Unit virtually overnight. Even as team members lost loved ones to the virus and fell ill themselves, we supported each other and persevered.

In the wake of the murder of George Floyd, the team redoubled our efforts to advance racial equity in State government. In service of that goal, we organized an implicit bias training, convened the Special Counsel Racial Equity Speakers Series, contributed to the State's guidance on reforming policing and crafted a proposal for a first-of-its-kind statewide effort to promote racial equity in the delivery of State programs and services.

As proud as I am of these accomplishments, it is time for me to move on. The sexual harassment allegations against the Governor reported in the media in recent days and his public statements in response have created an intolerable dissonance for me between continuing to serve in the Governor's Office and my life's work advocating on behalf of survivors. My gratitude for the opportunity to serve the people of New York alongside the talented and dedicated members of the Special Counsel team remains undiminished.

Sincerely,



cc: ESD, Human Resources

EXHIBIT

33

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]

**EXHIBIT**  
**34**

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

**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

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[redacted] - what [redacted] did was  
 completely appropriate.  
 nothing racial —  
 nothing racial going on —  
 hyper-sensitive —  
 she might have been hurt & he cut  
 her off —  
 he was ill-prepared to answer  
 the questions  
 [redacted] has been subpar —  
 starting to do cement  
~~that~~  
 [redacted] probably trying to set  
 up a retaliation.

[redacted]  
 a lot of what he was reacting to  
 was hostility - felt he was being generally  
 attacked

He was just reacting —  
 I don't think it was a racist attack —

My feeling that this isn't just an isolated  
 incident →  
 I kind of understand what is going through  
 his head —

have to be careful re. touz leie -  
miss miss aggressive -  
people cutting me off -  
I am supposed to be in Sr. Academy -

In this situation - not race

when specific people cut me off -  
I think it race related -  
but not [REDACTED] -

[REDACTED]  
I'm black, the person was  
white -

If I am asked to give a certain  
level of respect -

If that person doesn't show me  
respect -

and ends the call -

I'm not doing this -

When I thought it was highly  
inappropriate -

"let me speak" -

and then cut me off -

because

ⓐ -

I have not a lot of schedule  
calls w/ [REDACTED] - I've been  
here for 2 years -

//

\* Do not call a black person  
aggressive for natchly your tone

when its my time to speak -  
call was ended

Not a use of N word to be racist

Q- Any differentiation she treats others?

I can't speak to anyone else's  
experiences -

Effect was  
less about intent - about impact  
on me

"I am being told by a white  
woman" ... to let her speak -  
but when its my time to speak  
call is ended -

We ~~is~~ are not moving in a bubble -  
has to be in context of systemic racism

I understand case law +  
harassment in work place -  
not a legal issue - not when your  
boss yells at you - not legal - but decency  
How do you  
the care that I take when ...

not a legal issue

I felt like a racist attack

I understand the word felt because it was my experience

SM: serious accusation -  
a real accusation

We are in an environment where it's  
either not either or → either racist or  
grey area

I strongly believe that my position  
as a black man influences  
the way that people address me -

I feel like you

Not trying to trigger investigation  
not

employment discrimination brief

So few <sup>black</sup> people in this office  
So few <sup>black</sup> people in leadership  
that we feel that we are disposable -

I don't know why she spoke  
to me like that.

15 the onus on me to show why racist -

I can only say what I felt

My Job is [REDACTED]

I cannot separate my identity  
from what happens to me

If I get treated like this as the  
rep of black people

I don't know how to separate my  
legal title + identity from how  
I'm treated.

This is a general culture of  
incompetence +  
rough + tumble -

[REDACTED] has been sidelined  
[REDACTED] is full of white people

I shouldn't have

I am not worried about the legal problem  
day to day such a small group of black  
people +

you should be careful to treat people

carefully —  
friend boggy —

not objective in the context  
It would take some

I don't think her intent was —  
I stressed — It made me feel  
attacked racially —

not awareness in the office of  
difference —

I am one of the few black guys  
in the office and I am getting  
yelled at by a white woman —

how am I to perceive how I am  
treated — when I see the heavy  
practices in the office —

The tone / dismemories —  
they let me speak  
she said I am not doing this —  
beneath her

I was trying to give context about  
the event →  
right now there's a big  
hangup —

Renue Sharpton had a B-day event —  
can not Covid complaint —  
but Governor sent a video —  
so history doesn't start w/ year —

rude / discrimin  
context matters —  
Context of the office

what I don't want to be framed as  
boy who cried wolf —  
needs to be framed in terms of how  
do we treat minorities —