

State of New Jersey

Governor Phil Murphy

Governor Murphy Announces Revised State Policies and Procedures for the Handling of Allegations of Sexual Misconduct Against State Employees and Applicants for Employment

02/5/2019

Governor Supports Full Recommendations Outlined by Mamta Patel, Director of the Statewide Division of Equal Employment Opportunity (EEO) and Affirmative Action

TRENTON – Governor Phil Murphy today announced important revised state policies and procedures to strengthen the handling of allegations of sexual misconduct against state employees and applicants for employment. The revised state policy updates key areas of the state's discrimination and sexual harassment policies in support of state employees who have experienced sexual harassment or discrimination. The new protocols follow a request by Governor Murphy of Mamta Patel, Director of the Statewide Division of Equal Employment Opportunity and Affirmative Action within the Civil Service Commission, to review the state's policies and procedures addressing how allegations of sexual misconduct are handled to determine whether there are ways to improve the system.

"These sweeping revised policies and procedures make significant and impactful changes to how sexual harassment and misconduct allegations are handled in state government," **Governor Phil Murphy said**. "These additional measures clearly dictate the appropriate course of action to be taken by both survivors and the state. By embracing a survivor-centered approach in New Jersey, we are creating an environment where survivors of sexual harassment, misconduct, or assault are not only encouraged to come forward, but when doing so, they are met with dignity, respect, and a straightforward process to attain justice."

"The Civil Service Commission is pleased to have worked alongside the Governor's office to make substantive changes that will strengthen the state's sexual harassment policies and procedures," **said Deirdre Webster Cobb, Esq., Civil Service Commission Chair and Chief Executive Officer**. "I firmly support the Governor's call to modify the sexual harassment policy which promotes an environment where survivors of sexual harassment or misconduct can come forward. I commend Mamta Patel, Director of EEO and Affirmative Action and Chris Myers, Director of Division of Appeals and Regulatory Affairs for their tireless work on enhancing the existing policy."

"The New Jersey State Policy and Procedures Prohibiting Discrimination in the Workplace is a strong, comprehensive policy designed to support state employees and applicants for employment," **said Mamta Patel, Director of the Statewide Division of Equal Employment Opportunity and Affirmative Action within the Civil Service Commission**. "The revisions to the state policy include a broader definition of inappropriate, coerced touching to clarify that an allegation of sexual assault would implicate the state policy, and also strengthens protocols for all complainants of discrimination and sexual harassment."

The revised policies address specific areas of the *New Jersey State Policy and Procedures Prohibiting Discrimination in the Workplace*, New Jersey Administrative Code, 4A, Chapter 7, including:

Explicitly Adding Gubernatorial Transition Offices – The revised policy now applies to all employees and applicants for employment in state departments, commissions, state colleges or universities, agencies, authorities and Gubernatorial Transition Offices.

Stronger Language to Clarify the Definition of "Sexual Assault" – A broader definition of inappropriate, coerced touching that may constitute sexual harassment has been added to the Administrative Code, to specifically prohibit behaviors such as "sexual physical contact that involves any form of coercion, force, or lack of consent, such as sexual assault."

Clarified Reporting Guidance – The Administrative Code now includes updated guidance on a two-pronged approach to reporting. Specifically, language has been added to specify that “victims of prohibited sexual physical contact can file a criminal complaint with law enforcement where the incident occurred. Victims can also make a criminal complaint and a report to his/her supervisor and/or EEO Officer; one does not have to choose one or the other.”

New Interim Measures After an EEO Complaint – The Administrative Code now includes more examples of interim corrective measures that may be implemented after a complaint is reported, but prior to initiating an investigation. These measures include, but are not limited to, separation of parties; removal of parties from the workplace; and involvement of law enforcement when appropriate for instances involving bodily harm.

Expanded Factors to Consider When Determining State Policy Jurisdiction – The rules now include an expanded number of factors that may be considered when determining whether a case should be opened for investigation. Factors that may be considered by an EEO/AA officer include, but are not limited to, the facts presented; whether the complainant articulated a sufficient nexus between the alleged conduct to a protected category; the time the incident occurred; the time the incident was reported; and whether the complainant and/or respondent is a current state employee (regardless of when the incident occurred).

On December 15, 2018, the Office of the Governor sent the New Jersey Legislative Select Oversight Committee a draft of the Division of EEO/AA's proposed changes to New Jersey State Policy and Procedures Prohibiting Discrimination in the Workplace N.J.A.C. 4A, Chapter 7, and invited the Committee to provide feedback as part of our review process.

Although these revised policies and procedures will require a formal rule change in the New Jersey Administrative Code, which will be initiated by the Civil Service Commission, the Division of Equal Opportunity Employment Opportunity and Affirmative Action will begin to immediately train EEO Officers to the State Appointing Authorities of the changes so that there is no delay in implementation.

To access Mamta Patel's memorandum to the Governor outlining recommended changes to the Administrative Code, Chapter 7, please click here (https://nj.gov/governor/news/news/562019/docs/20190205_Memorandum.pdf).

To view the State of New Jersey's Discrimination Complaint Form, please click here (<https://www.nj.gov/csc/about/publications/forms/>).

To review all changes to the *New Jersey State Policy and Procedures Prohibiting Discrimination in the Workplace*, please click here (https://nj.gov/governor/news/news/562019/docs/20190205_Revised.pdf).

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