



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

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

TO: Rich Bamberger

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 8th day of April, 2021, at 9:30 a.m.**, or any agreed upon adjourned date or time, at One Liberty Plaza, 38th Floor, New York, New York 10006, all documents and information requested in the attached Schedule in accordance with the instructions and definitions contained therein.


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

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

EXHIBIT

1

WITNESS, The Honorable Letitia James, Attorney General of the State of New York, this 29th day of March, 2021.

By: 

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By: /s/ Anne L. Clark

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

thereof.

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

B. Particular Definitions

1. “Complainant” means Jessica Bakeman, Charlotte Bennett, Lindsey Boylan, Karen Hinton, Ana Liss, Alyssa McGrath, 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. “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.
4. “Governor” means the New York State Governor Andrew M. Cuomo.
5. “New York Attorney General” or “Attorney General” means the New York State Office of the Attorney General, including Letitia James.
6. “Respondent,” “You,” or “Your” means Rich Bamberger, in either an official or individual capacity.
7. “State” or “New York” means the State of New York.

C. Instructions

1. Preservation of Relevant Documents and Information; Spoliation. You are reminded of Your obligations under law to preserve Documents and information relevant or potentially relevant to this Subpoena from destruction or loss, and of the consequences of, and penalties available for, spoliation of evidence. No agreement, written or otherwise, purporting to modify, limit or otherwise vary the terms of this Subpoena, shall be construed in any way to narrow, qualify, eliminate or otherwise diminish Your aforementioned preservation obligations. Nor shall You act, in reliance upon any such agreement or otherwise, in any manner inconsistent with Your preservation obligations under law. No agreement purporting to modify, limit or otherwise vary Your preservation obligations under law shall be construed as in any way narrowing, qualifying, eliminating or otherwise diminishing such aforementioned preservation obligations, nor shall You act in reliance upon any such agreement, unless a Special Deputy to the First Deputy Attorney General confirms or acknowledges such agreement in writing, or makes such agreement a matter of record in open court.
2. Possession, Custody, and Control. The Subpoena calls for all responsive Documents or information in Your possession, custody or control. This includes, without limitation, Documents or information possessed or held by You or any of Your officers, directors, employees, agents, representatives, consultants, divisions, affiliates, subsidiaries or Persons from whom You could request

Documents or information. If Documents or information responsive to a request in this Subpoena are in Your control, but not in Your possession or custody, You shall promptly Identify the Person with possession or custody and notify that Person of the Person's obligation to preserve such Documents and provide them to You for production.

3. Documents No Longer in Your Possession. If any Document requested herein was formerly in Your possession, custody or control but is no longer available, or no longer exists, You shall submit a statement in writing under oath that: (a) describes in detail the nature of such Document and its contents; (b) Identifies the Person(s) who prepared such Document and its contents; (c) Identifies all Persons who have seen or had possession of such Document; (d) specifies the date(s) on which such Document was prepared, transmitted or received; (e) specifies the date(s) on which such Document became unavailable; (f) specifies the reason why such Document is unavailable, including without limitation whether it was misplaced, lost, destroyed or transferred; and if such Document has been destroyed or transferred, the conditions of and reasons for such destruction or transfer and the Identity of the Person(s) requesting and performing such destruction or transfer; and (g) Identifies all Persons with knowledge of any portion of the contents of the Document.
4. No Documents Responsive to Subpoena Requests. If there are no Documents responsive to any particular Subpoena request, You shall so state in writing under oath in the Affidavit of Compliance attached hereto, identifying the paragraph number(s) of the Subpoena request concerned.
5. Format of Production. You shall produce Documents and information responsive to this Subpoena in the format requested by the Office of the New York State Attorney General, as set out in Attachments 1 and 2 or as otherwise agreed upon.
6. Databases. To the extent that any data responsive to the requests herein is maintained in an electronic repository of records, such as a detailed transcription report, such information should be produced by querying the database for responsive information and generating a report or a reasonably usable and exportable electronic file (for example, *.csv and/or *.xls formats) for review. If it is not possible to export data in this format, You must make the database available to the undersigned for meaningful inspection and review of the information.
7. Existing Organization of Documents to be Preserved. Regardless of whether a production is in electronic or paper format, each Document shall be produced in the same form, sequence, organization or other order or layout in which it was maintained before production, including but not limited to production of any Document or other material indicating filing or other organization. Such production shall include without limitation any file folder, file jacket, cover or similar organizational material, as well as any folder bearing any title or legend that contains no Document. Likewise, all Documents that are physically attached

to each other in Your files shall remain so attached in any production; or if such production is electronic, shall be accompanied by notation or information sufficient to indicate clearly such physical attachment.

8. Manner of Compliance – Custodians/Search Terms/Technology-Assisted Review. Prior consultation with the Special Deputies to the First Deputy Attorney General is required concerning selection of custodians for document searches (whether electronic or otherwise) or for use of search term filters, predictive coding or other forms of technology-assisted review. The Office of the Attorney General reserves the right to approve, disapprove, modify or supplement any proposed list of custodians, search terms, and/or review methodology. The selection or use of custodians, search term filters, and/or technology-assisted review in no way relieves You of Your obligation to fully respond to these requests for Documents or information.
9. Document Numbering. All Documents responsive to this Subpoena, regardless of whether produced or withheld on ground of privilege or other legal doctrine, and regardless of whether production is in electronic or paper format, shall be numbered in the lower right corner of each page of such Document, without disrupting or altering the form, sequence, organization or other order or layout in which such Documents were maintained before production. Such number shall comprise a prefix containing the producing Person's name or an abbreviation thereof, followed by a unique, sequential, identifying document control number.
10. Privilege Placeholders. For each Document withheld from production on ground of privilege or other legal doctrine, regardless of whether a production is electronic or in hard copy, You shall insert one or more placeholder page(s) in the production bearing the same document control number(s) borne by the Document withheld, in the sequential place(s) originally occupied by the Document before it was removed from the production.
11. Privilege. If You withhold or redact any Document responsive to this Subpoena on ground of any privilege or other legal doctrine, You shall submit with the Documents produced a statement in writing under oath, stating: (a) the document control number(s) of the Document withheld or redacted; (b) the type of Document; (c) the date of the Document; (d) the author(s) and recipient(s) of the Document; (e) the general subject matter of the Document; and (f) the legal ground for withholding or redacting the Document. If the legal ground for withholding or redacting the Document is attorney-client privilege, You shall indicate the name of the attorney(s) whose legal advice is sought or provided in the Document.
12. Your Production Instructions to Be Produced. You shall produce a copy of all written or otherwise recorded instructions prepared by You concerning the steps taken to respond to this Subpoena. For any unrecorded instructions given, You shall provide a written statement under oath from the Person(s) who gave such

instructions that details the specific content of the instructions and any Person(s) to whom the instructions were given.

13. Cover Letter, Index, and Identifying Information. Accompanying any production(s) made pursuant to this Subpoena, You shall include a cover letter that shall at a minimum provide an index containing the following: (a) a description of the type and content of each Document produced therewith; (b) the paragraph number(s) of the Subpoena request(s) to which each such Document is responsive; (c) the Identity of the Custodian(s) of each such Document; and (d) the document control number(s) of each such Document. As further set forth in Attachment 2, information must also be included in the metadata and load files of each production concerning the identity of each Document's custodian, as well as information identifying the particular Document requests and/or information to which each document is responsive.
14. Affidavit of Compliance. A copy of the Affidavit of Compliance provided herewith shall be completed and executed by all natural persons supervising or participating in compliance with this Subpoena, and You shall submit such executed Affidavit(s) of Compliance with Your response to this Subpoena.
15. Identification of Persons Preparing Production. In a schedule attached to the Affidavit of Compliance provided herewith, You shall Identify the natural person(s) who prepared or assembled any productions or responses to this Subpoena. You shall further Identify the natural person(s) under whose personal supervision the preparation and assembly of productions and responses to this Subpoena occurred. You shall further Identify all other natural person(s) able to competently testify: (a) that such productions and responses are complete and correct to the best of such person's knowledge and belief; and (b) that any Documents produced are authentic, genuine and what they purport to be.
16. Continuing Obligation to Produce. This Subpoena imposes a continuing obligation to produce the Documents and information requested. Documents located or created, and information learned, acquired or created, at any time after Your response is due shall be promptly produced at the place specified in this Subpoena.
17. No Oral Modifications. No agreement purporting to modify, limit or otherwise vary this Subpoena shall be valid or binding, and You shall not act in reliance upon any such agreement, unless a Special Deputy to the First Deputy Attorney General confirms or acknowledges such agreement in writing, or makes such agreement a matter of record in open court.
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 relating to any Complaint concerning the Governor, or anyone in the Executive Chamber or the Governor's staff, including but not limited to any Communication relating to any statement made or information provided to the media or the public.

2. Any and all Documents concerning any Complainant, including but not limited to any Communication relating to any statement made or information provided to the media or the public.

ATTACHMENT 1
Electronic Document Production Specifications

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

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

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

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

A. Relational Databases

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

B. Compression

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

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

7. Production File Requirements.

A. ***Metadata Load File***

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

- hh:mm:ss:mmm

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

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

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

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

D. ***Opticon Load File***

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

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

E. ***Native Files***

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

ATTACHMENT 2
Required Fields for Metadata Load File

| FIELD NAME | FIELD DESCRIPTION | FIELD VALUE EXAMPLE¹ |
|-------------------|---|--|
| 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. | |

¹ 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 |
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AFFIDAVIT OF COMPLIANCE WITH SUBPOENA

State of _____ }
County of _____ }

I, _____, being duly sworn, state as follows:

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

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

Signature of Affiant

Date

Printed Name of Affiant

* * *

Subscribed and sworn to before me this _____ day of _____, 20__.

_____, Notary Public

My commission expires: _____



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

TO: Rich Bamberger
c/o Anne Cortina Perry
Jenner & Block LLP
919 Third Avenue
New York, NY 10022-3908

YOU ARE HEREBY COMMANDED, pursuant to Executive Law § 63(8) and New York Civil Practice Law and Rule § 2302(a), to appear and attend before the Special Deputies to the First Deputy Attorney General, on May 3, 2021 at 9:30 AM, or any agreed upon adjourned date or time, at One Liberty Plaza, 38th Floor, New York, New York 10006 to testify in connection with an investigation into allegations of and circumstances surrounding sexual harassment claims made against Governor Cuomo, or any matter that 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 Executive Law § 63(8), New York Civil Practice Law and Rules § 2308 and/or other statutes.

EXHIBIT

2

WITNESS, The Honorable Letitia James, Attorney General of the State of New York,
this 23rd day of April, 2021.

By: 

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**STATE OF NEW YORK
EXECUTIVE DEPARTMENT**



**EQUAL EMPLOYMENT OPPORTUNITY
In New York State**

RIGHTS AND RESPONSIBILITIES

A Handbook for Employees of New York State Agencies

**Andrew M. Cuomo
Governor**

December 2011

EXHIBIT

3

EMPLOYEE RIGHTS AND RESPONSIBILITIES

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INTRODUCTION

New York State has long been committed to the proposition that every individual in the State have an equal opportunity to enjoy a full and productive life. This commitment to equal opportunity extends to the workplace. Under New York State's Human Rights Law, the first of its kind in the nation, employees are protected from acts of bias, harassment, prejudice or discrimination. Such acts have no place in the workplace, State or otherwise.

All State employees have the right to be free from unlawful discrimination and the responsibility to assure that their actions do not contribute to an atmosphere in which the State's policy of promoting a bias-free work environment is frustrated. To that end, 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 since it is generally broader in scope than protections granted under federal law. In addition, this Handbook will cover related state laws and Executive Orders.

This Handbook does not cover agency-specific policies and procedures related to discrimination. That information is provided to employees by their respective agencies.

EMPLOYEE RIGHTS AND RESPONSIBILITIES

PROTECTED AREAS

The Human Rights Law (“Law”) applies to all State agencies and employees, and provides very broad anti-discrimination coverage. The 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, marital status or domestic violence victim status 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. The 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 areas will be discussed in order 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 New York State 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.

EMPLOYEE RIGHTS AND RESPONSIBILITIES

Statutory protection.

Age discrimination is made unlawful by Human Rights Law § 296.1 and § 296.3-a, and by the federal Age Discrimination in Employment Act (“ADEA”).¹ 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. 96,² 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.³ 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.⁴

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 Law⁵ mandates minimum and maximum hiring ages for police officers. Correction Officers must be age 21 in order to be appointed.⁶ These are lawful exceptions to the provisions of the Human Rights Law.

There are certain limited exceptions to the prohibition on mandatory retirement.⁷ For example, officers of the New York State Police are required to retire at age 60,⁸ and State park police officers are required to retire at age 62.⁹

¹ 29 U.S.C. § 621 et seq.

² Issued by Gov. Mario M. Cuomo on April 27, 1987.

³ Human Rights Law § 296.3-a(d), *but see* exceptions below.

⁴ Human Rights Law § 296.3-a(g).

⁵ N.Y. Civil Service Law § 58; *see also* N.Y. Executive Law § 215.3.

⁶ N.Y. Correction Law § 7(4).

EMPLOYEE RIGHTS AND RESPONSIBILITIES

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

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, the State defers to an employee's self-identification as a member of a particular race.

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

Statutory protection.

Race and color discrimination is unlawful pursuant to the Human Rights Law § 296.1, and the federal Civil Rights Act of 1964, Title VII.¹¹

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

⁷ Human Rights Law § 296.3-a(g).

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

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

¹⁰ Human Rights Law § 296.3-a(g).

¹¹ 42 U.S.C. § 2000e et seq.

EMPLOYEE RIGHTS AND RESPONSIBILITIES

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, and the federal Civil Rights Act of 1964, Title VII.¹²

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 his or her religion, provided it does not impose an undue hardship to his or her employer, as explained below.¹³ 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.¹⁴ 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.¹⁵ Under no circumstances may time off for religious observance be charged as sick leave.¹⁶

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 employee is working during such hours only to make up time taken for religious observance.¹⁷

Civil Service Law § 50(9) provides that candidates who are unable to attend a civil service examination because of religious observance can request an

¹² 42 U.S.C. § 2000e et seq.

¹³ Human Rights Law § 296.10(a).

¹⁴ Human Rights Law § 296.10(b).

¹⁵ Human Rights Law § 296.10(c).

¹⁶ Human Rights Law § 296.10(b).

¹⁷ 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).

EMPLOYEE RIGHTS AND RESPONSIBILITIES

alternate test date from the Department of Civil Service without additional fee or penalty.

Religious observance or practices.

An employee who, in accordance with his or her religious beliefs, observes a particular manner of dress, hairstyle, beard, or other religious practice, should not be unreasonably required to compromise his or her 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.¹⁸

Request for accommodation.

The employee needing 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 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.¹⁹

¹⁸ Human Rights Law § 296.10(a).

¹⁹ Human Rights Law § 296.10(d)(1).

EMPLOYEE RIGHTS AND RESPONSIBILITIES

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.²⁰

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 his or her ancestors' nationality.²¹ An individual's self-identification with a particular national or ethnic group is determinative.

Statutory protection.

National origin discrimination is unlawful pursuant to the Human Rights Law § 296.1, and the federal Civil Rights Act of 1964, Title VII.²²

Language issues.

Fluency in English may be a job requirement. However, requiring that a person speaks English as his or her 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

²⁰ Human Rights Law § 296.10(d)(1).

²¹ Human Rights Law § 292.8.

²² 42 U.S.C. § 2000e et seq.

EMPLOYEE RIGHTS AND RESPONSIBILITIES

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.²³

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.²⁴

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.²⁵

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.²⁶

²³ See the federal Equal Employment Opportunity Commission's regulation at 29 CFR § 1606.7.

²⁴ 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.

²⁵ Public Officers Law § 3(1); Criminal Procedure Law § 1.20(34) (police officers); Criminal Procedure Law § 2.10 (peace officers).

²⁶ Human Rights Law § 292.27.

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Statutory protection.

Discrimination on the basis of sexual orientation is unlawful pursuant to the Human Rights Law § 296.1. Sexual orientation is not a protected category 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 employer and his or her partner can fill out the *Application for Domestic Partner Benefits and Affidavit of Domestic Partnership and Financial Interdependence*, which is available on-line from the Department of Civil Service. Opposite-sex domestic partners can also qualify for benefits on the same basis as same-sex partners.

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.²⁷

²⁷ Human Rights Law § 292.28.

EMPLOYEE RIGHTS AND RESPONSIBILITIES

Statutory protection.

Discrimination on the basis of military status is unlawful pursuant to the Human Rights Law § 296.1. The federal Uniformed Services Employment and Reemployment Rights Act (USERRA)²⁸ 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"²⁹ or "military duty."³⁰ 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 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.

²⁸ 38 U.S.C. §§ 4301-35.

²⁹ N.Y. Military Law § 242; pertains to members of the militia, the reserve forces, or reserve components of any branch of the military.

³⁰ N.Y. Military Law § 243; pertains to active duty in the armed forces or reservists called to active duty.

EMPLOYEE RIGHTS AND RESPONSIBILITIES

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.

Statutory protection.

Sex discrimination is unlawful pursuant to the Human Rights Law § 296.1, and the federal Civil Rights Act of 1964, Title VII.³¹

Executive Order concerning State workers.

On January 1, 2011, Governor Andrew M. Cuomo issued Executive Order No. 2 reissuing Executive Order No. 19,³² which established State policy on sexual harassment in the workplace.

Sexual harassment.

As noted in the Executive Order, sexual harassment is both offensive and unlawful. Every State employee is entitled to a working environment free from sexual harassment and its negative economic, psychological and physical effects. Allowing sexual harassment to go unchecked in State workplaces would create significant costs to the State in both human and financial terms, including the replacement of personnel who leave their jobs, increased use of health benefit plans due to emotional and physical stress, absenteeism, and decline in individual and workgroup productivity.

In accordance with the Executive Order, every State executive branch agency must have in place 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.

Hostile environment sexual harassment consists of 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 has also been defined as any unwanted verbal or physical advances, sexually explicit derogatory statements, or sexually discriminatory remarks made by someone in the workplace which are offensive or objectionable to the recipient, which cause the recipient discomfort or humiliation, or which interfere with the recipient's job performance.

³¹ 42 U.S.C. § 2000e et seq.

³² Issued by Gov. Mario M. Cuomo on May 31, 1983.

EMPLOYEE RIGHTS AND RESPONSIBILITIES

Sexual harassment is known as “quid pro quo” harassment when a person in authority tries to trade job benefits for sexual favors. Only supervisors are deemed to engage in this kind of harassment, because co-workers do not have the authority to grant or withhold benefits.

With respect to inappropriate questions during the hiring process or during employment, see, generally, section entitled [Unlawful Inquiries](#), below.

Employees should consult their agency’s sexual harassment policy for further discussion of what constitutes sexual harassment.

As with all discrimination and harassment, if an employee is a victim of sexual harassment, or observes it in the workplace, the employee should complain promptly to a supervisor, managerial employee, personnel administrator, or equal employment officer. The complaint can be verbal or in writing. If the complaint is verbal, a written complaint may be required in order to assist in the investigation. Any complaint, whether verbal or written, must be investigated by the agency. 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 agency is required to initiate an investigation and take prompt and effective remedial action where appropriate.

See, generally, section on [Harassment](#), below.

Sex stereotyping.

Sex stereotyping occurs when conduct or personality traits 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. For example, conduct may be considered “too aggressive” only because the individual is female, a person may be considered to be “too sensitive” only because that person is male, or a person might not look or dress in a manner consistent with another person’s views of how a man or woman should look or dress. Making employment decisions based on sex-stereotyped evaluations of conduct, looks or dress can be considered sex discrimination.

Harassment because a person does not conform to gender stereotypes is sexual harassment. Derogatory comments directed at a person who has undergone sex reassignment surgery can be sexual harassment, just as comments about secondary sex characteristics of any person can be sexual harassment.

EMPLOYEE RIGHTS AND RESPONSIBILITIES

Non-harassment related 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 sections below on [Gender Identity](#) and on [Disability](#).

Pregnancy discrimination and maternity leave.

Discrimination on the basis of pregnancy constitutes sex discrimination. 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.³³ Disability discrimination may also be implicated where discrimination is based on limitations or perceived limitations due to pregnancy. Any condition related to pregnancy 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. (See below in the section on [Disability](#).)

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.

The federal Family Medical Leave Act³⁴ is also applicable. 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 Act. The Act entitles eligible employees to take up to a total of 12 weeks of unpaid leave during a 12-month period.

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.

³³ Human Rights Law § 296.1(g).

³⁴ 29 U.S.C. § 2601 et seq.

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. 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.³⁵ The Federal Rehabilitation Act of 1973 § 503 and § 504³⁶ also apply to many State workers. Federal law also requires reasonable accommodation.

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.³⁷

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

³⁵ 42 U.S.C. § 12111 et seq.

³⁶ 29 U.S.C. § 793 and § 794.

³⁷ Human Rights Law § 292.21.

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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.

Reasonable Accommodation.³⁸

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;
- 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

³⁸ With respect to policy and procedures relative to reasonable accommodation generally, employees should also consult their own agencies’ policies, as each State agency is required to have a written plan, policy and procedure for considering reasonable accommodation requests.

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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 needs of the person with the disability are met. 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. Such information 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) or 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 regulations³⁹ 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.

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

As noted above relative to pregnancy discrimination, 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, section on [Military Status](#).)

³⁹ 9 N.Y.C.R.R. § 466.11.

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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.⁴⁰ This is extended to two years for an individual injured in an assault that causes such injury or disease. The Civil Service Law also allows an agency to terminate an employee who has been continuously absent for one year for a personal injury or illness.⁴¹

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 a disability which may be caused by the use of controlled substances or alcohol, that employee may be required to undergo medical testing.⁴² If the cause of the disability is found to be 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 http://www.goer.ny.gov/Training_Development/Online_Learning/index.cfm.

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.

⁴⁰ Civil Service Law § 71.

⁴¹ Civil Service Law § 73.

⁴² For agencies that do not have their own drug/alcohol testing procedures, this test must be done pursuant to Civil Service Law § 72.

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Drug Addiction and Alcoholism under the Human Rights Law and Regulations.⁴³

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.

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 also, [Drug and Alcohol Free Workplace Policy](#), above.

Guide dogs, hearing dogs, and service dogs.

Users of guide dogs, hearing dogs, or service dogs are given protection by the Human Rights Law.⁴⁴ Any dog that meets the definition will be allowed to accompany its owner into the workplace, with only extremely narrow exceptions for health and safety.

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 is not part of the federal ADA, under which the matter may be analyzed to determine whether a reasonable accommodation is appropriate.

The right to be accompanied by such dogs 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 blind or hearing impaired person, is actually used to provide such aid, and was trained by a recognized guide or hearing dog training center or professional guide or hearing dog trainer.⁴⁵

⁴³ See generally 9 N.Y.C.R.R. § 466.11(h).

⁴⁴ Human Rights Law § 296.14.

⁴⁵ Human Rights Law §§ 292.31-32.

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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 recognized service dog training center or professional service dog trainer.⁴⁶

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.⁴⁷ 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 recognized 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.⁴⁸

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.⁴⁹

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.⁵⁰

⁴⁶ Human Rights Law § 292.33.

⁴⁷ 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.

⁴⁸ Civil Service Law § 6(1).

⁴⁹ 9 N.Y.C.R.R. § 466.11(g)(1).

⁵⁰ 9 N.Y.C.R.R. § 466.11(g)(2).

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 and § 296.19. It is also covered by the federal Genetic Information Nondiscrimination Act (GINA).⁵¹

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.”⁵²

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.⁵³ 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.⁵⁴

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

⁵¹ 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>.

⁵² Human Rights Law § 292.21-a.

⁵³ Human Rights Law § 296.19(a)(1).

⁵⁴ Human Rights Law § 296.19(a)(2).

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environment. The employer may not take any adverse action against an employee on the basis of such voluntary test.⁵⁵

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.⁵⁶ However, the employer may not take adverse action against the employee as a result of such testing.

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. 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.

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,

⁵⁵ Human Rights Law § 296.19(c) and (d).

⁵⁶ Human Rights Law § 296.19(b).

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fire, supervise or discipline a spouse or other relative.⁵⁷ 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.

DOMESTIC VIOLENCE VICTIM STATUS

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.

Statutory protection.

Discrimination based on domestic violence victim status is unlawful pursuant to Human Rights Law § 296.1. 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. 19,⁵⁸ 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

⁵⁷ Anti-nepotism rules for all State government workplaces are found in N.Y. Public Officers Law § 73.14.

⁵⁸ Issued by Gov. Eliot L. Spitzer on October 22, 2007.

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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 his or her 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 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 section on [Disability](#), above: 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.

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- 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.

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.⁵⁹

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.⁶⁰

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.

⁵⁹ N.Y. Penal Law § 215.14.

⁶⁰ N.Y. Labor Law § 593.

PRIOR ARREST RECORDS, YOUTHFUL OFFENDER ADJUDICATIONS AND SEALED 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 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 or criminal accusation or to take any adverse action based on such an arrest or criminal accusation.

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 accusations. (It is also not unlawful to inquire about convictions, see section on [Previous Conviction](#), below.)

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 accusation.

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 then becomes protected. After a favorable termination, the employer cannot 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;
- disposed of as a youthful offender adjudication, pursuant to Criminal Procedure Law § 720.35;
- resulted in a conviction for a violation, which was sealed pursuant to Criminal Procedure Law § 160.55; or
- resulted in a conviction, which was sealed pursuant to Criminal Procedure Law § 160.58.

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 the section below on [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.”⁶¹

These provisions do not apply to an application for employment as a police officer or peace officer.⁶²

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

⁶¹ Human Rights Law § 296.16; see e.g. Civil Service Law § 50(4).

⁶² Police and peace officer as defined in Criminal Procedure Law §§ 1.20 and 2.10, respectively.

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 his or her 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.⁶³

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.
- (d) The time which has elapsed since the occurrence of the criminal offense or offenses.

⁶³ N.Y. Correction Law § 752.

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- (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.⁶⁴

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.⁶⁵

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.⁶⁶

Interaction with the arrest provisions.

The arrest provisions⁶⁷ of the Human Rights Law interact with the conviction provisions. Although it is **lawful to ask** about previous convictions, it is **unlawful**

⁶⁴ N.Y. Correction Law § 753.1.

⁶⁵ N.Y. Correction Law § 753.2.

⁶⁶ N.Y. Correction Law § 751; see also Civil Service Law section 50(4).

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to ask about previous arrests resolved in an individual’s favor, 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 section on [Prior Arrest](#), above.)

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 previous conviction. An individual can pursue enforcement under the Human Rights Law only by filing an Article 78 proceeding in State Supreme Court.⁶⁸ (However, State employees may file complaints with respect to the Prior Arrest provisions of the Human Rights Law (see section on [Prior Arrest](#), above) with the Division of Human Rights.)

Exceptions.

It is not unlawful to discriminate 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.”⁶⁹

GENDER IDENTITY

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, nor shall employees be harassed or otherwise discriminated against on such basis, or perceived basis.

“Gender identity” means and individual’s gender identity, self-image, appearance, behavior or expression, whether or not that gender identity, self-image, appearance, behavior or expression is different from that traditionally associated with the legal sex or gender assigned to an individual at birth.

⁶⁷ Human Rights Law § 296.16.

⁶⁸ N.Y. Correction Law § 755.1.

⁶⁹ N.Y. Correction Law § 750.5.

EMPLOYEE RIGHTS AND RESPONSIBILITIES

Statutory protection.

There is no specific protection for gender identity in federal or New York State law, but gender identity may form the basis of a sex discrimination claim, under certain circumstances, or a disability discrimination claim if the employee alleges that he or she has “gender identity disorder” or “gender dysphoria,” which are considered disabilities under the Human Rights Law. (See sections on [Sex](#) and on [Disability](#), above.)

Executive Order concerning State workers.

On January 1, 2011, Governor Andrew M. Cuomo issued Executive Order No. 2, reissuing Executive Order No. 33,⁷⁰ which prohibits discrimination in employment by executive branch agencies on the basis of gender identity.

What protection against discrimination is provided?

The Executive Order seeks to root out employment discrimination on the basis of gender identity in order to help attract and retain competent and effective employees.

No State agency, employee or agent thereof, shall discriminate on the basis of gender identity against any individual in any matter pertaining to employment by the State including, but not limited to, hiring, termination, retention, job appointment, promotion, tenure, recruitment, compensation and benefits, and other terms and conditions of employment. Under the Executive Order, harassment and retaliation based on gender identity are also prohibited. (See sections, generally, on [Harassment](#) and on [Retaliation](#), below.) Claims of retaliation or harassment based on gender identity can only be processed under the Human Rights Law if the basis for such claim is otherwise covered under that law. All complaints alleging harassment and retaliation under Executive Order 33 can be made under an agency’s internal discrimination complaint procedure.

The prohibition on gender identity discrimination extends to actions based upon an individual’s actual or perceived gender identity. While gender identity discrimination 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.

⁷⁰ Issued by Gov. David A Paterson on December 16, 2009.

GENERAL PROHIBITIONS

Harassment

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 also subsection on [Sexual Harassment](#), above.) State employees are entitled to a work environment 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 because of his or her 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 when it becomes severe or frequent enough to alter the terms or conditions of an individual's employment.

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 must be reported.

The employing agency is not responsible for harassment by co-workers, unless the agency knows about the harassment and fails to take appropriate steps to correct the situation. Harassment should be reported to a supervisor, manager, human resources officer, or EEO officer. The individual who reports harassment, or who is experiencing the harassment, needs to cooperate with any investigation into the harassment so that a full and fair investigation can be conducted and any necessary remedial action can be promptly undertaken.

An employee with supervisory responsibility has a duty to report harassment that he or she observes or otherwise knows about. A supervisor who has received a report of harassment from an employee has a duty to report it to management, even if the employee who complained has asked that it not be reported. Any harassment or potential harassment that is observed must be reported, even if no one is complaining about it.

EMPLOYEE RIGHTS AND RESPONSIBILITIES

Harassment must be investigated and appropriate corrective action taken.

The employing agency has the duty to investigate any report of harassment. If it is determined that the harassing behavior is occurring, the employing agency has a duty to take prompt and effective corrective action to stop the harassment and take such other steps as are appropriate.

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 category, unless based upon a bona fide occupational qualification.⁷¹

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 category membership which is collected for statistical purposes should be retained separately from a candidate's other information.

Retaliation

Retaliation by an employer is unlawful pursuant to the Human Rights Law and the Civil Service Law.⁷² The federal statutes mentioned in this handbook also prohibit retaliation.

The Human Rights Law protects any individual who has filed a complaint, testified or assisted in any proceeding under the Law, as well as one who has opposed any practices forbidden by the Law. Even if the practices the individual has opposed are not in fact a violation of the Human Rights Law, the individual is protected if he or she had a good faith belief that the practices were unlawful.

⁷¹ Human Rights Law § 296.1(d).

⁷² Human Rights Law § 296.7; see also Civil Service Law § 75.(b), which gives protection to "whistleblowers."

EMPLOYEE RIGHTS AND RESPONSIBILITIES

Division or court proceedings.

A complainant or witness is absolutely protected against retaliation for any oral or written statements made to the Division 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 the employing agency, or reporting discriminatory actions to a supervisor or other appropriate person, either verbally or in writing. It also includes complaining that another person's rights under the Law were violated or encouraging a fellow employee to report unlawful discriminatory practices.

However, behaving inappropriately towards a person deemed to be engaged in discrimination or harassment does not constitute protected opposition to unlawful practices. Employees should instead complain to a supervisor, manager, human resources officer, or EEO officer.

There is no protection for a person who opposes practices the person finds merely distasteful or wrong, despite having no reasonable basis to believe those practices were in violation of the Law or State policy. Furthermore, the retaliation provision is not intended to protect persons making false charges of discrimination.

Adverse employment action.

Retaliation consists of an adverse action or actions taken against the employee by the employer. The action need not be job-related or occur in the workplace. Unlawful retaliation can be any action, more than trivial, that would have the effect of dissuading a reasonable worker from making or supporting a charge of discrimination.

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.

A negative employment 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.

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

EMPLOYEE RIGHTS AND RESPONSIBILITIES

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 his or her official authority or influence to coerce the political action of any person or body or to interfere with any election.⁷³ This provision has been enforced by the New York State Commission on Public Integrity, which will be replaced on or before December 12, 2011, by the Joint Commission on Public Ethics. Complaints regarding this provision should not be filed with the Division of Human Rights.

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 the Governor's Office of Employee Relations (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.

Reporting Discrimination Complaints Internally

As noted throughout this Handbook, any employee who has been subjected to any discrimination, bias, prejudice, harassment or retaliation, based on any of the areas covered by the handbook, should promptly report the matter to his or her supervisor or manager, to the agency's human resources department, or to the agency's Equal Opportunity Officer.

Each agency has policies and procedures in place to respond to such complaints, and can advise employees as to appropriate steps to take pursuant to the agency's procedures. All agency procedures are designed to ensure that the State's anti-discrimination policies are followed, including the State's policies forbidding retaliation, as set out above. All agency procedures provide for a prompt and complete investigation as to the complaint of discrimination, and for prompt and effective remedial action where appropriate.

⁷³ Civil Service Law § 107.

EMPLOYEE RIGHTS AND RESPONSIBILITIES

Pursuing Discrimination Complaints Externally

Agency policies and procedures are intended to address all complaints of discrimination within the agency. They 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 agency's internal complaint procedure before filing a complaint with any agency or with a court, based on federal or state or local law (though as mentioned previously, an agency may not be held responsible for harassment by coworkers if it was not made aware of the harassment).

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.

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
 - Telephone: (888)392-3644
 - TTY number: (718)741-8300
- United State Equal Employment Opportunity Commission ("EEOC")
 - Website: www.eeoc.gov
 - Telephone: (800)669-4000
 - TTY number: (800)669-6820

EMPLOYEE RIGHTS AND RESPONSIBILITIES

NOTE

This Handbook has been prepared for the general information of State employees as a summary of the various laws, executive orders, and policies that provide protection from discrimination for State employees. The Handbook is not exhaustive and does not summarize all legal protections that may apply to State employees. Employees should also refer to the employee manual and anti-discrimination policies of their employing agency.

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 anytime, 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.

Date: Sunday, December 13 2020 10:36 AM

Subject: [Chat #3698]

From: Rich Bamberger

To: + [REDACTED] [Dave Caruso];

It's Bamberger Sorry to bug Can i call you when you have a second

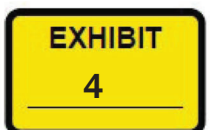
----METADATA INFORMATION----

Device Owner:

+ [REDACTED] Bamberger, Rich

ICCID:

[REDACTED]



Date: Sunday, December 13 2020 10:42 AM

Subject: [Chat #3699]

From: Dave Caruso <+ [REDACTED]>

To: Rich Bamberger [REDACTED]

Yeah, let's talk. Just give me a few minutes. I'll call you.

-----METADATA INFORMATION-----

Device Owner:

+ [REDACTED] Bamberger, Rich

ICCID:

[REDACTED]

Date: Sunday, December 13 2020 10:55 AM

Subject: [Chat #3700]

From: Rich Bamberger

To: + [REDACTED] [Dave Caruso];

K

----METADATA INFORMATION----

Device Owner:

+ [REDACTED] Bamberger, Rich

ICCID:

[REDACTED]

Date: Sunday, December 13 2020 11:39 AM

Subject: [Chat #3701]

From: Dave Caruso <+ [REDACTED]>

To: Rich Bamberger [REDACTED]

We're going to have to write this soon, as it's picking up steam. Think the governor is going to address it?

----METADATA INFORMATION----

Device Owner:

+ [REDACTED] Bamberger, Rich

ICCID:

[REDACTED]

Date: Sunday, December 13 2020 11:51 AM

Subject: [Chat #3702]

From: Rich Bamberger

To: + [REDACTED] [Dave Caruso];

Got it Working on that now

----METADATA INFORMATION----

Device Owner:

+ [REDACTED] Bamberger, Rich

ICCID:

[REDACTED]

Date: Sunday, December 13 2020 11:52 AM

Subject: [Chat #3703]

From: Rich Bamberger

To: + [redacted] [Dave Caruso];

Please don't post without giving me a heads up Trying to get you something now

----METADATA INFORMATION----

Device Owner:

+ [redacted] Bamberger, Rich

ICCID:

[redacted]

Date: Sunday, December 13 2020 11:53 AM

Subject: [Chat #3704]

From: Dave Caruso <+ [REDACTED]>

To: Rich Bamberger [REDACTED]

Will do.

-----METADATA INFORMATION-----

Device Owner:

+ [REDACTED] Bamberger, Rich

ICCID:

[REDACTED]

Date: Sunday, December 13 2020 01:00 PM

Subject: [Chat #3705]

From: Dave Caruso <+ [REDACTED]>

To: Rich Bamberger [REDACTED]

We're holding this thing right now waiting for an on-the-record response. I probably can't keep it off the wire for much longer.

-----METADATA INFORMATION-----

Device Owner:

+ [REDACTED] Bamberger, Rich

ICCID:

[REDACTED]

Date: Sunday, December 13 2020 01:05 PM

Subject: [Chat #3706]

From: Rich Bamberger

To: + [REDACTED] [Dave Caruso];

K Standby

----METADATA INFORMATION----

Device Owner:

+ [REDACTED] Bamberger, Rich

ICCID:

[REDACTED]

Date: Sunday, December 13 2020 01:35 PM

Subject: [Chat #3707]

From: Dave Caruso <+ [REDACTED]>

To: Rich Bamberger [REDACTED]

Hey, we've got to go out with what we have. We can update the story with more as it becomes available.

----METADATA INFORMATION----

Device Owner:

+ [REDACTED] Bamberger, Rich

ICCID:

[REDACTED]

Date: Sunday, December 13 2020 01:37 PM

Subject: [Chat #3708]

From: Rich Bamberger

To: + [REDACTED] [Dave Caruso];

Just texted them again It's coming from Azzopardi

----METADATA INFORMATION----

Device Owner:

+ [REDACTED] Bamberger, Rich

ICCID:

[REDACTED]

Date: Sunday, December 13 2020 01:37 PM

Subject: [Chat #3709]

From: Dave Caruso <+ [REDACTED]>

To: Rich Bamberger [REDACTED]

OK. We'll look for it. Thanks for your help.

-----METADATA INFORMATION-----

Device Owner:

+ [REDACTED] Bamberger, Rich

ICCID:

[REDACTED]

Date: Sunday, December 13 2020 01:45 PM

Subject: [Chat #3710]

From: Rich Bamberger

To: + [redacted] [Dave Caruso];

It's coming to you in minutes Going to you first Standby Hold if you can

----METADATA INFORMATION----

Device Owner:

+ [redacted] Bamberger, Rich

ICCID:

[redacted]

Date: Sunday, December 13 2020 03:01 PM
Subject: [Chat #3711]
From: Rich Bamberger
To: + [REDACTED] [Dave Caruso];
Attachments: IMG_6802.jpeg

FYI From 2018

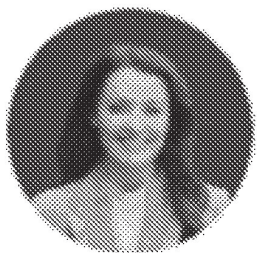
----METADATA INFORMATION----

Device Owner:

+ [REDACTED] Bamberger, Rich

ICCID:

[REDACTED]



Lindsey Boylan 

@LindseyBoylan



Andrew Cuomo Is New York's Best
Choice for Governor    

[nytimes.com/2018/11/01/opi...](https://www.nytimes.com/2018/11/01/opi...)

7:08 AM · Nov 4, 2018 · Twitter for iPhone



Date: Sunday, December 13 2020 03:05 PM

Subject: [Chat #3712]

From: Dave Caruso <+ [REDACTED]>

To: Rich Bamberger [REDACTED]

I see that. Thank you.

-----METADATA INFORMATION-----

Device Owner:

+ [REDACTED] Bamberger, Rich

ICCID:

[REDACTED]

Date: Sunday, December 13 2020 03:13 PM

Subject: [Chat #3713]

From: Rich Bamberger

To: + [REDACTED] [Dave Caruso];

Are you good with paperwork

----METADATA INFORMATION----

Device Owner:

+ [REDACTED] Bamberger, Rich

ICCID:

[REDACTED]

Date: Sunday, December 13 2020 03:15 PM

Subject: [Chat #3714]

From: Dave Caruso <+ [REDACTED]>

To: Rich Bamberger [REDACTED]

Just going through it now.

----METADATA INFORMATION----

Device Owner:

+ [REDACTED] Bamberger, Rich

ICCID:

[REDACTED]

Date: Sunday, December 13 2020 03:15 PM

Subject: [Chat #3715]

From: Rich Bamberger

To: + [redacted] [Dave Caruso];

K

----METADATA INFORMATION----

Device Owner:

+ [redacted] Bamberger, Rich

ICCID:

[redacted]

Date: Monday, December 14 2020 04:52 PM

Subject: [Chat #3717]

From: Rich Bamberger

To: + [redacted] [Dave Caruso];

Thanks for your time yesterday I owe you a weekend day back

----METADATA INFORMATION----

Device Owner:

+ [redacted] Bamberger, Rich

ICCID:

[redacted]

Date: Monday, December 14 2020 04:52 PM

Subject: [Chat #3718]

From: Rich Bamberger

To: + [redacted] [Dave Caruso];

No worries Nothing urgent

----METADATA INFORMATION----

Device Owner:

+ [redacted] Bamberger, Rich

ICCID:

[redacted]

1:29

LTE

< 791

BH

Bernadette >

Sun, Dec 13, 10:54 AM

Can i call you?

I'll call you in 5

Sorry on a walk missed you
but yes

Sun, Dec 13, 12:14 PM

One sec on the phone

Sun, Dec 13, 1:36 PM

One second on the other line

Did you send the docs yet

Hey

ETA?

Call back in 10

EXHIBIT

5

Alright



iMessage



1:30

LTE

< 791

BH

Bernadette >

Call back in 10

Alright

Azzo is sending to you any minute

Good

Thanks

Print deadline is 5:30
otherwise it's not making it in

Tweet has been up since 9 am

Azzo said he was sending
I'll call him again

He won't pick up my calls so

This is really getting to be
absurd

I just texted him!!



iMessage



1:31

LTE

< 791

BH

Bernadette >

Azzo said he was sending
I'll call him again

He won't pick up my calls so

This is really getting to be
absurd

I just texted him!!

You now will have to feel my
wrath too hahah

Thank you

HA
HA

It's ok
I'm used to wrath's work wise
and [REDACTED]
[REDACTED]



Lindsey Boylan
@LindseyBoylan

Andrew Cuomo Is New York's Best
Choice for Governor 🙌🙌👍👍

nytimes.com/2018/11/01/opi...

7:08 AM · Nov 4, 2018 · Twitter for iPhone



iMessage



1:32

LTE

< 791



Bernadette >



Lindsey Boylan
@LindseyBoylan

Andrew Cuomo Is New York's Best
Choice for Governor 🙌🙌👍👍

nytimes.com/2018/11/01/opi...

7:08 AM · Nov 4, 2018 · Twitter for iPhone



This is from 2018
Did he call you

He called me yes thanks

So you know what I'm capable
of, with my Celtic fury

Mon, Dec 14, 2:41 PM

On deadline I'll call you back

U writing on newser

Yes

Any warts?



iMessage



1:34

LTE

< 791

BH

Bernadette >

Mon, Dec 14, 2:41 PM

On deadline I'll call you back

U writing on newser

Yes

Any warts?

Yeah so many loose ends you guys will have to clean up you're going to freak out

Mon, Dec 14, 4:54 PM

^this was a joke lol

But I'll call back soon

HA
HA

K
Not urgent and don't forget -
[REDACTED],
she messes with me day and
night



iMessage



Date: Sunday, December 13 2020 12:03 PM

Subject: [Chat #3683]

From: Rich Azzopardi [REDACTED]

To: Rich Bamberger [REDACTED] [Dani Lever]; [REDACTED] [Josh Vlasto]; [REDACTED]
[Steve Cohen];

Attachments: IMG_6898.jpeg; IMG_6903.jpeg; IMG_6902.jpeg; IMG_6899.jpeg; IMG_6901.jpeg; IMG_6900.jpeg;
IMG_6897.jpeg

----METADATA INFORMATION----

Device Owner:

+ [REDACTED] Bamberger, Rich

ICCID:

[REDACTED]





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

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

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

Privileged and confidential
Attorney client communication
Attorney work product



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

MEMORANDUM TO FILE

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

I. Purpose

[REDACTED]

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

[REDACTED]

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

3. Ms. Boylan's Resignation

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

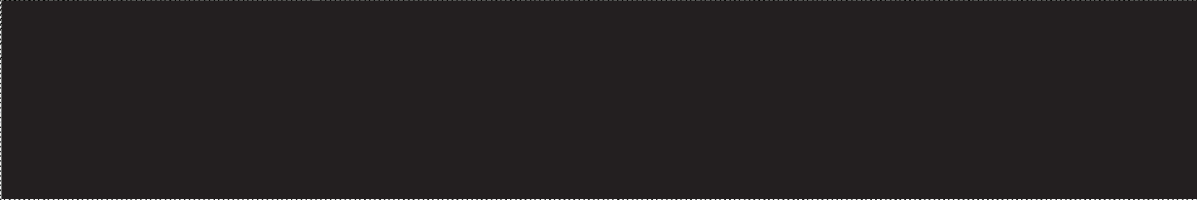
Towards the close of this meeting Ms. Boylan voluntarily tendered her resignation, indicated that she would be leaving the office for the day and consulting with her own counsel regarding her next steps in Executive Chamber. She was clear that she intended to resign but she wished to think through the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

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

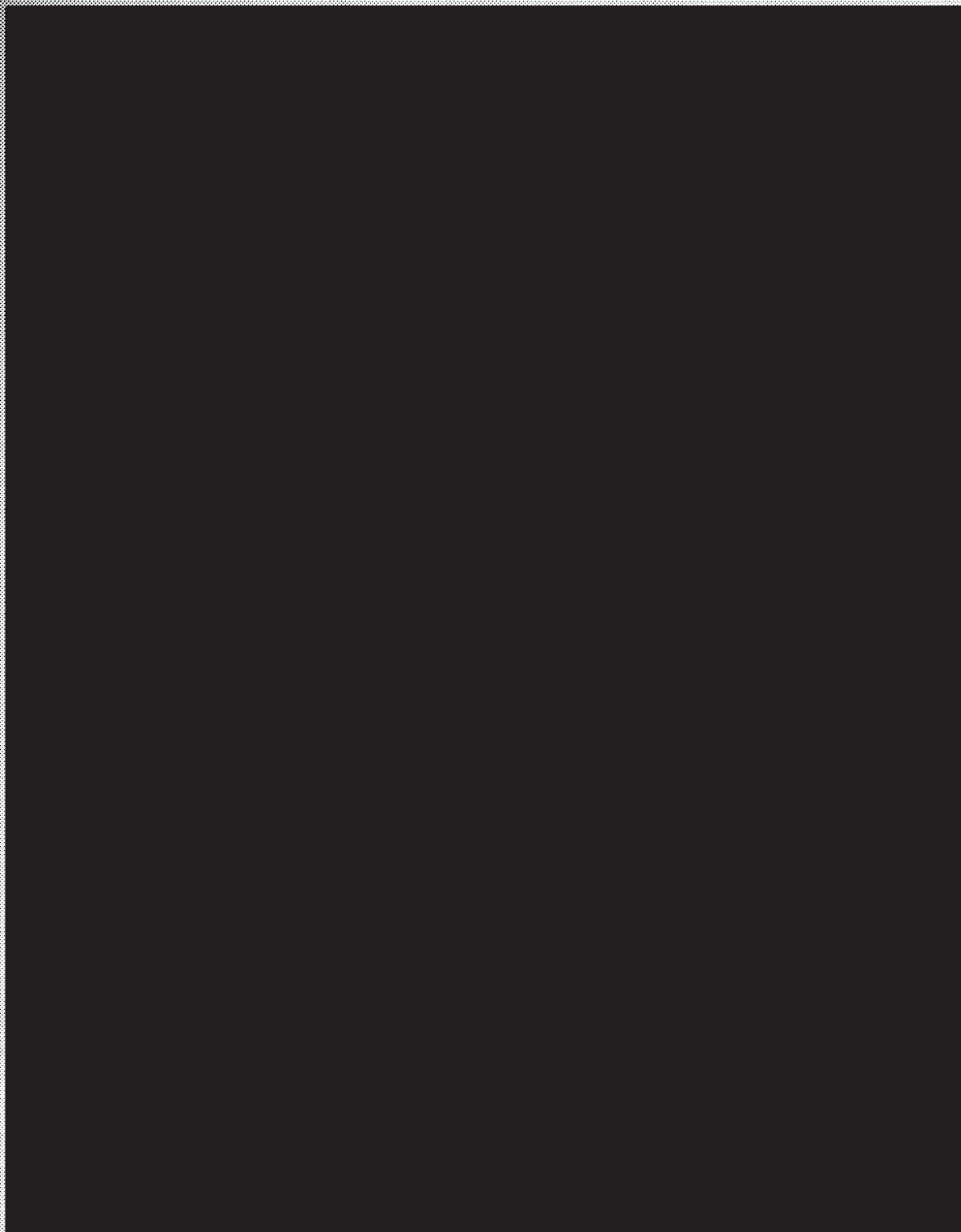
I wrote this memorandum on September 26, 2018 based on contemporaneous notes taken during my personal attendance at the above described meeting on September 26, 2018.

/s

Julia Pinover Kupiec
Executive Chamber Ethics Officer



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



Memorandum

To: Alphonso David, Counsel to the Governor
From: Camille Joseph Varlack, Deputy Director of State Operations,
Chief Risk Officer and Special Counsel
Re: Confidential Personnel Matter
Date: September 20, 2018

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

[REDACTED]

Date: Sunday, December 13 2020 11:15 AM

Subject: [Chat #4630]

From: Dani Lever [REDACTED]

To: Rich Bamberger [REDACTED]; + [REDACTED] [Josh Vlasto]; + [REDACTED] [Melissa DeRosa]; + [REDACTED]
[Rich Azzopardi];

Dana slowed down too. Did the off the record but also wants to see the stuff in file and would take that off record

----METADATA INFORMATION----

Device Owner:

+ [REDACTED] Bamberger, Rich

ICCID:

[REDACTED]

EXHIBIT

7

Date: Sunday, December 13 2020 11:33 AM

Subject: [Chat #4632]

From: Rich Bamberger

To: + [REDACTED] [Dani Lever]; + [REDACTED] [Josh Vlasto]; + [REDACTED] [Melissa DeRosa]; + [REDACTED]
[Rich Azzopardi];

Dana just called me- she says she has to write something and “suggests” we get her something so it’s on record
She said to please give her anything!!

----METADATA INFORMATION----

Device Owner:

+ [REDACTED] Bamberger, Rich

ICCID:

[REDACTED]

Date: Sunday, December 13 2020 11:59 AM

Subject: [Chat #4633]

From: Rich Bamberger

To: + [Redacted] [Dani Lever]; + [Redacted] [Josh Vlasto]; + [Redacted] [Melissa DeRosa]; + [Redacted]
[Rich Azzopardi];

May have someone to on record

----METADATA INFORMATION----

Device Owner:

+ [Redacted] Bamberger, Rich

ICCID:

[Redacted]

Date: Sunday, December 13 2020 04:20 PM

Subject: [Chat #3633]

From: Rich Azzopardi <+ [REDACTED]>

To: Rich Bamberger [REDACTED] + [REDACTED] [Dani Lever]; + [REDACTED] [Josh Vlasto]; + [REDACTED]
[Melissa DeRosa]; + [REDACTED] [Linda Lacewell];

Some helpful stuff in here. I know he talked to [REDACTED] and [REDACTED]

----METADATA INFORMATION-----

Device Owner:

+ [REDACTED] Bamberger, Rich

ICCID:

[REDACTED]



Date: Sunday, December 13 2020 04:20 PM

Subject: [Chat #3634]

From: Rich Azzopardi <+ [REDACTED]>

To: Rich Bamberger [REDACTED] + [REDACTED] [Dani Lever]; + [REDACTED] [Josh Vlasto]; + [REDACTED]
[Melissa DeRosa]; + [REDACTED] [Linda Lacewell];

<https://www.timesunion.com/news/article/On-Twitter-former-Cuomo-aide-alleges-sexual-15798159.php>

-----METADATA INFORMATION-----

Device Owner:

+ [REDACTED] Bamberger, Rich

ICCID:

[REDACTED]

Date: Sunday, December 13 2020 04:23 PM

Subject: [Chat #3635]

From: Josh Vlasto <+ [REDACTED]>

To: Rich Bamberger [REDACTED] + [REDACTED] [Dani Lever]; + [REDACTED] [Melissa DeRosa]; + [REDACTED]
[Linda Lacewell]; + [REDACTED] [Rich Azzopardi];

Give them the docs!

-----METADATA INFORMATION-----

Device Owner:

+ [REDACTED] Bamberger, Rich

ICCID:

[REDACTED]

Date: Sunday, December 13 2020 04:24 PM

Subject: [Chat #3636]

From: Rich Azzopardi <+ [REDACTED]>

To: Rich Bamberger [REDACTED] + [REDACTED] [Dani Lever]; + [REDACTED] [Josh Vlasto]; + [REDACTED]
[Melissa DeRosa]; + [REDACTED] [Linda Lacewell];

I don't know if I trust them

-----METADATA INFORMATION-----

Device Owner:

+ [REDACTED] Bamberger, Rich

ICCID:

[REDACTED]

Date: Sunday, December 13 2020 04:24 PM

Subject: [Chat #3638]

From: Josh Vlasto <+ [REDACTED]>

To: Rich Bamberger [REDACTED] + [REDACTED] [Dani Lever]; + [REDACTED] [Melissa DeRosa]; + [REDACTED]
[Linda Lacewell]; + [REDACTED] [Rich Azzopardi];

Fair enough

----METADATA INFORMATION----

Device Owner:

+ [REDACTED] Bamberger, Rich

ICCID:

[REDACTED]

Date: Sunday, December 13 2020 04:26 PM

Subject: [Chat #3639]

From: Rich Azzopardi <+ [REDACTED]>

To: Rich Bamberger [REDACTED] + [REDACTED] [Dani Lever]; + [REDACTED] [Josh Vlasto]; + [REDACTED]
[Melissa DeRosa]; + [REDACTED] [Linda Lacewell];

Updated ap

----METADATA INFORMATION----

Device Owner:

+ [REDACTED] Bamberger, Rich

ICCID:

[REDACTED]

Date: Sunday, December 13 2020 04:26 PM

Subject: [Chat #3640]

From: Rich Azzopardi <+ [REDACTED]>

To: Rich Bamberger [REDACTED] + [REDACTED] [Dani Lever]; + [REDACTED] [Josh Vlasto]; + [REDACTED]
[Melissa DeRosa]; + [REDACTED] [Linda Lacewell];

<https://apnews.com/article/new-york-andrew-cuomo-manhattan-f1b386ac61a0a860960a231acf5b2942>

----METADATA INFORMATION----

Device Owner:

+ [REDACTED] Bamberger, Rich

ICCID:

[REDACTED]

Date: Sunday, December 13 2020 04:27 PM
Subject: [Chat #3641]
From: Rich Azzopardi <+ [REDACTED]>
To: Rich Bamberger [REDACTED] + [REDACTED] [Dani Lever]; + [REDACTED] [Josh Vlasto]; + [REDACTED]
[Melissa DeRosa]; + [REDACTED] [Linda Lacewell];
Attachments: Screenshot 2020-12-13 at 4.27.42 PM.jpeg

----METADATA INFORMATION-----

Device Owner:

+ [REDACTED] Bamberger, Rich

ICCID:

[REDACTED]



Edward McKinley @ByEdMcKi... · 1m

A former aide to Gov. Andrew Cuomo says he sexually harassed her and ran a hostile workplace environment

I spoke with three female former aides (+15 years experience combined). Here's what they said:

timesunion.com/news/article/O...

The Times Union interviewed three women who worked in the executive chamber for Cuomo for more than 15 years combined, but have each since left. They were reached out to independently by the newspaper; they spoke on the condition of anonymity as they weren't familiar with Boylan's specific claims of being personally harassed, but they said the culture described by Boylan did not match their own experiences working for Cuomo.

"I never once saw him berate or treat a staffer in a way that was unbecoming. I just never saw it. And to me ... there's a lot of things that could be said about the governor, but sexual harassment, it just boggles my mind," said the first, who worked in a manager-level role for a number of years.



Edward McKinley @ByEdMcKi... · 15s

I was not referred to these sources by the governor's staff, and they were each contacted separately.

Here's what they said on the culture in Cuomo's office:

The second said she had been "racking her brain" all morning trying to think if she'd ever heard of the governor harassing a woman after seeing Boylan's tweets, and she couldn't come up with anyone. The third said she "never felt or observed any sexual harassment, period."

All three women said that working for the governor is demanding and high stress, and that Cuomo can be a tough boss. But they conveyed that is one should expect when one works in high levels of government.

One of the women, when asked whether Cuomo speaks sharply to staff, paused for several seconds before answering slowly that "he expects a lot."



Date: Sunday, December 13 2020 04:34 PM

Subject: [Chat #3642]

From: Dani Lever <[REDACTED]>

To: Rich Bamberger + [REDACTED] [Josh Vlasto]; + [REDACTED] [Melissa DeRosa]; + [REDACTED]
[Linda Lacewell]; + [REDACTED] [Rich Azzopardi];

AP is spot on guys good job

----METADATA INFORMATION----

Device Owner:

+ [REDACTED] Bamberger, Rich

ICCID:

[REDACTED]

Date: Sunday, December 13 2020 04:35 PM

Subject: [Chat #3643]

From: Dani Lever <[REDACTED]>

To: Rich Bamberger [REDACTED] + [REDACTED] [Josh Vlasto]; + [REDACTED] [Melissa DeRosa]; + [REDACTED]
[Linda Lacewell]; + [REDACTED] [Rich Azzopardi];

I just sent it to the times

-----METADATA INFORMATION-----

Device Owner:

+ [REDACTED] Bamberger, Rich

ICCID:

[REDACTED]

Date: Sunday, December 13 2020 04:36 PM

Subject: [Chat #3644]

From: Josh Vlasto <+ [REDACTED]>

To: Rich Bamberger + [REDACTED] [Dani Lever]; + [REDACTED] [Melissa DeRosa]; + [REDACTED]
[Linda Lacewell]; + [REDACTED] [Rich Azzopardi];

It is for sure

----METADATA INFORMATION----

Device Owner:

+ [REDACTED] Bamberger, Rich

ICCID:

[REDACTED]

Date: Sunday, December 13 2020 04:36 PM

Subject: [Chat #3645]

From: Melissa DeRosa <+ [REDACTED]>

To: Rich Bamberger [REDACTED] + [REDACTED] [Dani Lever]; + [REDACTED] [Josh Vlasto]; + [REDACTED]
[Linda Lacewell]; + [REDACTED] [Rich Azzopardi];

Should we give to the dn and WSJ too

-----METADATA INFORMATION-----

Device Owner:

+ [REDACTED] Bamberger, Rich

ICCID:

[REDACTED]

Date: Sunday, December 13 2020 04:36 PM

Subject: [Chat #3646]

From: Melissa DeRosa <+ [REDACTED]>

To: Rich Bamberger [REDACTED] + [REDACTED] [Dani Lever]; + [REDACTED] [Josh Vlasto]; + [REDACTED]
[Linda Lacewell]; + [REDACTED] [Rich Azzopardi];

And should we make times point out that she never made a complaint about him

-----METADATA INFORMATION-----

Device Owner:

+ [REDACTED] Bamberger, Rich

ICCID:

[REDACTED]

Date: Sunday, December 13 2020 04:37 PM

Subject: [Chat #3647]

From: Josh Vlasto <+ [REDACTED]>

To: Rich Bamberger [REDACTED] + [REDACTED] [Dani Lever]; + [REDACTED] [Melissa DeRosa]; + [REDACTED]
[Linda Lacewell]; + [REDACTED] [Rich Azzopardi];

Yes!

----METADATA INFORMATION----

Device Owner:

+ [REDACTED] Bamberger, Rich

ICCID:

[REDACTED]

Date: Sunday, December 13 2020 04:37 PM

Subject: [Chat #3648]

From: Josh Vlasto <+ [REDACTED]>

To: Rich Bamberger [REDACTED] + [REDACTED] [Dani Lever]; + [REDACTED] [Melissa DeRosa]; + [REDACTED]
[Linda Lacewell]; + [REDACTED] [Rich Azzopardi];

It has to get in the stories

-----METADATA INFORMATION-----

Device Owner:

+ [REDACTED] Bamberger, Rich

ICCID:

[REDACTED]

Date: Sunday, December 13 2020 04:38 PM

Subject: [Chat #3649]

From: Rich Bamberger

To: + [Redacted] [Dani Lever]; + [Redacted] [Josh Vlasto]; + [Redacted] [Melissa DeRosa]; + [Redacted]
[Linda Lacewell]; + [Redacted] [Rich Azzopardi];

Agreed Caruso story muddies the waters tremendously That's the story we need from all of them

----METADATA INFORMATION----

Device Owner:

+ [Redacted] Bamberger, Rich

ICCID:

[Redacted]

Date: Sunday, December 13 2020 05:12 PM
Subject: [Chat #3650]
From: Linda Lacewell [REDACTED]
To: Rich Bamberger [REDACTED]; + [REDACTED] [Dani Lever]; + [REDACTED] [Josh Vlasto]; + [REDACTED]
[Melissa DeRosa]; + [REDACTED] [Rich Azzopardi];
Attachments: 50A6FC7B-3DBF-415F-9C43-0B4A51C442DC.pluginPayloadAttachment

<https://twitter.com/byedmckinley/status/1338244238635622402?s=10>

----METADATA INFORMATION----

Device Owner:

+ [REDACTED] Bamberger, Rich

ICCID:

[REDACTED]



Date: Sunday, December 13 2020 08:23 PM
Subject: [Chat #3653]
From: Melissa DeRosa <+ [REDACTED]>
To: Rich Bamberger [REDACTED] + [REDACTED] [Dani Lever]; + [REDACTED] [Josh Vlasto]; + [REDACTED]
[Linda Lacewell]; + [REDACTED] [Rich Azzopardi];
Attachments: Screenshot 2020-12-13 at 8.22.45 PM.jpeg

Now she's tweeting about housing?!

----METADATA INFORMATION----

Device Owner:

+ [REDACTED] Bamberger, Rich

ICCID:

[REDACTED]

Lindsey Boylan

31.6K Tweets

Tweets

Tweets & replies

Media

Likes



Lindsey Boylan @LindseyBo... · 19m

Thinking about how many of our community members are facing eviction, thousands are already unhoused, & millions more are facing food insecurity.

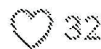
To start, we need an #EvictionFreeNY.



Lindsey Boylan @LindseyBo... · 19m

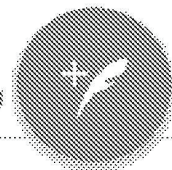
But more than that, we need leaders that recognize how all these issues are connected & that act with urgency based on that knowledge.

As Manhattan Boro President, I plan on tackling each of these issues by listening, advocating, and acting on behalf of the community I love.



Lindsey Boylan @LindseyBo... · 19m

Learn more about my vision here:
lindseyfornewyork.com



Lindsey Boylan @LindseyBoylan · 2h



Date: Sunday, December 13 2020 08:24 PM

Subject: [Chat #3654]

From: Rich Azzopardi <+ [REDACTED]>

To: Rich Bamberger [REDACTED] + [REDACTED] [Dani Lever]; + [REDACTED] [Josh Vlasto]; + [REDACTED]
[Melissa DeRosa]; + [REDACTED] [Linda Lacewell];

This is the worst black mirror episode ever

----METADATA INFORMATION----

Device Owner:

+ [REDACTED] Bamberger, Rich

ICCID:

[REDACTED]

Date: Sunday, December 13 2020 08:37 PM

Subject: [Chat #3655]

From: Josh Vlasto <+ [REDACTED]>

To: Rich Bamberger [REDACTED] + [REDACTED] [Dani Lever]; + [REDACTED] [Melissa DeRosa]; + [REDACTED]
[Linda Lacewell]; + [REDACTED] [Rich Azzopardi];

Even barnhardts not buying it

-----METADATA INFORMATION-----

Device Owner:

+ [REDACTED] Bamberger, Rich

ICCID:

[REDACTED]



Rachel Barnhart @rachbarnhart · 29m

The @timesunion does a number on accuser. She is quite brave for speaking out, but without more specifics and witnesses, the media will do this. Throwing a bomb and not taking questions isn't realistic.



On Twitter, former Cuomo aide alleges sexual harassment by governor
timesunion.com

7 1 4

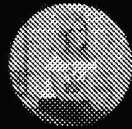


14th Amendment Cha Cha @Hey... · 1m

Yeah, not answering questions about this when she's spending the next few months running for political office in one of the world's most intensive media markets...good luck with that.

1 1

Michael Kink liked



Beth Moore @BethMooreLPM · 10h

I do not believe these are days for mincing words. I'm 63 1/2 years old & I have seen anything in these United States America I found more astonishingly



Date: Sunday, December 13 2020 10:06 AM

Subject: [Chat #93197]

From: Rich Bamberger <+ [REDACTED]>

To: "+ [REDACTED] [Joshua Vlasto (owner)]"; [REDACTED]@gmail.com [Joshua Vlasto (owner)]";

Do you want to also tell Melissa the rumor about the other person we talked about with her? Just so we cover ourselves or should we just be quiet?

----METADATA INFORMATION-----

Device Owner:

[REDACTED] Josh Vlasto

ICCID:

[REDACTED]



Date: Sunday, December 13 2020 10:07 AM

Subject: [Chat #93198]

From: Joshua Vlasto <+ [REDACTED]>

To: + [REDACTED] [Rich Bamberger];

Eh

----METADATA INFORMATION----

Device Owner:

[REDACTED] Josh Vlasto

ICCID:

[REDACTED]

Date: Sunday, December 13 2020 10:07 AM

Subject: [Chat #93199]

From: Joshua Vlasto <+ [REDACTED]>

To: + [REDACTED] [Rich Bamberger];

Need to do it today

----METADATA INFORMATION----

Device Owner:

[REDACTED] Josh Vlasto

ICCID:

[REDACTED]

Date: Sunday, December 13 2020 10:08 AM

Subject: [Chat #93200]

From: Rich Bamberger <+ [REDACTED]>

To: "+ [REDACTED] [Joshua Vlasto (owner)]"; [REDACTED]@gmail.com [Joshua Vlasto (owner)];

I'm around

----METADATA INFORMATION----

Device Owner:

[REDACTED] Josh Vlasto

ICCID:

[REDACTED]

Date: Saturday, December 19 2020 09:55 AM

Subject: [Chat #88951]

From: Rich Bamberger

To: +

You around for a second

----METADATA INFORMATION----

Device Owner:

+ Bamberger, Rich

ICCID:

EXHIBIT

10

Date: Saturday, December 19 2020 03:07 PM
Subject: [Chat #88952]
From: Rich Bamberger [REDACTED]
To: + [REDACTED]
Attachments: IMG_6831.JPG

She wanted you to look at these texts Seen as threats

----METADATA INFORMATION----

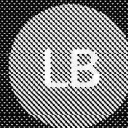
Device Owner:

+ [REDACTED] Bamberger, Rich

ICCID:

[REDACTED]

21:51



Lindsey Boylan

NEWS: The safety of NYers is our top priority.

I'm signing an Executive Order to reduce the # of Petition Signatures to 30% of the statutory threshold; Petition period will end at 5PM, Tues 3/17.

This will ensure our electoral process goes on while safeguarding public health.



Andrew Cuomo

twitter.com

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.



iMessage



Apple Pay



Date: Saturday, December 19 2020 03:09 PM

Subject: [Chat #88953]

From: + [REDACTED]

To: Rich Bamberger [REDACTED] + [REDACTED]

Don't understand her point in the context of the GOV tweet

----METADATA INFORMATION----

Device Owner:

+ [REDACTED] Bamberger, Rich

ICCID:

[REDACTED]

Date: Saturday, December 19 2020 03:12 PM

Subject: [Chat #88954]

From: Rich Bamberger

To: +

She says he did the action to hurt her !

----METADATA INFORMATION----

Device Owner:

+ Bamberger, Rich

ICCID:

Date: Saturday, December 19 2020 03:12 PM

Subject: [Chat #88955]

From: Rich Bamberger

To: +

Getting another sent to Dani

----METADATA INFORMATION----

Device Owner:

+ Bamberger, Rich

ICCID:

Date: Saturday, December 19 2020 03:19 PM
Subject: [Chat #88970]
From: Rich Bamberger [REDACTED]
To: + [REDACTED]
Attachments: IMG_6833.JPG

The dani one

----METADATA INFORMATION----

Device Owner:

+ [REDACTED] Bamberger, Rich

ICCID:

[REDACTED]

New iMessage

Cancel

To: Lindsey Boylan

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.

Wed, May 6, 6:15 PM

I hope that journalists will be looking into NDAs etc as



From: Executive Assistant #2 [REDACTED]@exec.ny.gov
Sent: 12/15/2020 11:12:39 AM
To: Executive Assistant #2 (CHAMBER) [REDACTED]@exec.ny.gov; DeRosa, Melissa (CHAMBER) [REDACTED]@exec.ny.gov; Cohen, Steven (ESD) [REDACTED]@esd.ny.gov; Azzopardi, Richard (CHAMBER) [REDACTED]@exec.ny.gov; Lacewell, Linda A (DFS) [REDACTED]@dfs.ny.gov; Ajemian, Peter (CHAMBER) [REDACTED]@exec.ny.gov; Executive Assistant #3 (CHAMBER) [REDACTED]@exec.ny.gov; Commisso, Brittany (CHAMBER) [REDACTED]@exec.ny.gov; [REDACTED] (CHAMBER) [REDACTED]@exec.ny.gov; [REDACTED] (CHAMBER) [REDACTED]@exec.ny.gov; [REDACTED] (DFS) [REDACTED]@dfs.ny.gov; [REDACTED] (DFS) [REDACTED]@dfs.ny.gov

Subject: MDR Call
Location: [REDACTED]

Start: 12/15/2020 11:30:00 AM
End: 12/15/2020 12:00:00 PM
Show Time As: Busy

Recurrence: (none)

Rich Bamberger
Josh Vlasto
Dani Lever
Steve Cohen
Rich Azzopardi
Linda Lacewell
Peter Ajemian



Date: Friday, December 18 2020 10:26 AM

Subject: [Chat #113030]

From: Josh Vlasto <+ [REDACTED]>

To: Rich Bamberger [REDACTED]

I think im going to lose the bet

----METADATA INFORMATION----

Device Owner:

+ [REDACTED] Bamberger, Rich

ICCID:

[REDACTED]

EXHIBIT

12

Date: Friday, December 18 2020 10:26 AM

Subject: [Chat #113031]

From: Josh Vlasto <+ [REDACTED]>

To: Rich Bamberger [REDACTED]

With the gov

----METADATA INFORMATION----

Device Owner:

+ [REDACTED] Bamberger, Rich

ICCID:

[REDACTED]

Date: Friday, December 18 2020 10:26 AM

Subject: [Chat #113032]

From: Josh Vlasto <+ [REDACTED]>

To: Rich Bamberger [REDACTED]

Folks losing interest

----METADATA INFORMATION----

Device Owner:

+ [REDACTED] Bamberger, Rich

ICCID:

[REDACTED]

Date: Friday, December 18 2020 10:26 AM

Subject: [Chat #113033]

From: Josh Vlasto <+ [REDACTED]>

To: Rich Bamberger [REDACTED]

Is what it is

----METADATA INFORMATION----

Device Owner:

+ [REDACTED] Bamberger, Rich

ICCID:

[REDACTED]



Rich >

Sat, Dec 19, 7:42 AM

715 in the morning on a Saturday they ask me to call gartland.

A lesson for the future

Can't believe they waited until 715.

Agreed.

I would email

He responds quickly sted of call

But not this early

He has [REDACTED] too

I think you can email - just not text or call.
EMail doesn't make noise

EXHIBIT
13

But what do I say? What reason is there for them to move early

What was the latest from him: he



iMessage



6:17 ↖



RB

Rich >

What was the latest from him: he wrote and gave to editor?

I've stretched the competitive issue as far as I can because he isn't going to believe someone is posting a story today

Agree on that
They didn't have me give anything to Kramer!

Well that's my way out

Did he say he was going to write?

He filed already and walked me through the story

How is it?

Good

He's been good to us on a kivvit level too

Most importantly



iMessage



CONFIDENTIAL TREATMENT REQUESTED

Exempt from Disclosure Under FOIL, N. Y. Pub. Off. Law § 87(2)

NYAGV000030



Rich >

Thu, Dec 17, 12:40 PM

What about RBC and see if there are complaints there ?

I think you and me offer less not more

This letter is NUTS

Redacted in original production

Redacted in original production

Redacted in original production

Redacted in original production

Redacted in original production

Redacted in original production

Redacted in original production

Redacted in original production

Redacted in original production



Redacted in original production



iMessage



Date: Wednesday, December 16 2020 05:59 PM

Subject: [Chat #35316]

From: Rich Bamberger

To: + [REDACTED] [Melissa DeRosa];

Who has confirmed signing on?

----METADATA INFORMATION----

Device Owner:

+ [REDACTED] Bamberger, Rich

ICCID:

[REDACTED]

EXHIBIT

15

Date: Wednesday, December 16 2020 05:59 PM

Subject: [Chat #35317]

From: Melissa DeRosa <+ [REDACTED]>

To: Rich Bamberger [REDACTED]

[REDACTED] Dani Annabel said they would do

----METADATA INFORMATION----

Device Owner:

+ [REDACTED] Bamberger, Rich

ICCID:

[REDACTED]

Date: Wednesday, December 16 2020 05:59 PM

Subject: [Chat #35318]

From: Melissa DeRosa <+ [REDACTED]>

To: Rich Bamberger [REDACTED]

I'm working on others

----METADATA INFORMATION----

Device Owner:

+ [REDACTED] Bamberger, Rich

ICCID:

[REDACTED]

Date: Wednesday, December 16 2020 05:59 PM

Subject: [Chat #35319]

From: Rich Bamberger

To: + [REDACTED] [Melissa DeRosa];

[REDACTED] asked Can i tell her

----METADATA INFORMATION----

Device Owner:

+ [REDACTED] Bamberger, Rich

ICCID:

[REDACTED]

Date: Wednesday, December 16 2020 06:01 PM

Subject: [Chat #35320]

From: Melissa DeRosa <+ [REDACTED]>

To: Rich Bamberger [REDACTED]

Yes

----METADATA INFORMATION----

Device Owner:

+ [REDACTED] Bamberger, Rich

ICCID:

[REDACTED]

Date: Thursday, December 17 2020 12:50 PM

Subject: [Chat #35321]

From: Melissa DeRosa <+ [REDACTED]>

To: Rich Bamberger [REDACTED]

And can you please call McKinley

----METADATA INFORMATION----

Device Owner:

+ [REDACTED] Bamberger, Rich

ICCID:

[REDACTED]

Date: Saturday, December 19 2020 08:44 AM

Subject: [Chat #35328]

From: Rich Bamberger

To: + [REDACTED] [Melissa DeRosa];

Should we leak her the texts to Rob and Dani She was interested in seeing them

----METADATA INFORMATION----

Device Owner:

+ [REDACTED] Bamberger, Rich

ICCID:

[REDACTED]

Date: Saturday, December 19 2020 09:00 AM

Subject: [Chat #35329]

From: Melissa DeRosa <+ [REDACTED]>

To: Rich Bamberger [REDACTED]

Not yet

----METADATA INFORMATION----

Device Owner:

+ [REDACTED] Bamberger, Rich

ICCID:

[REDACTED]

Date: Saturday, December 19 2020 09:01 AM

Subject: [Chat #35331]

From: Melissa DeRosa <+ [REDACTED]>

To: Rich Bamberger [REDACTED]

Can u try her on tweet?

----METADATA INFORMATION----

Device Owner:

+ [REDACTED] Bamberger, Rich

ICCID:

[REDACTED]

Date: Saturday, December 19 2020 09:01 AM

Subject: [Chat #35332]

From: Melissa DeRosa <+ [REDACTED]>

To: Rich Bamberger [REDACTED]

Favor for us?

----METADATA INFORMATION----

Device Owner:

+ [REDACTED] Bamberger, Rich

ICCID:

[REDACTED]

Date: Saturday, December 19 2020 09:01 AM

Subject: [Chat #35333]

From: Rich Bamberger

To: + [REDACTED] [Melissa DeRosa];

Yes

----METADATA INFORMATION----

Device Owner:

+ [REDACTED] Bamberger, Rich

ICCID:

[REDACTED]

Date: Saturday, December 19 2020 09:01 AM

Subject: [Chat #35334]

From: Rich Bamberger

To: + [REDACTED] [Melissa DeRosa];

Will call her

----METADATA INFORMATION----

Device Owner:

+ [REDACTED] Bamberger, Rich

ICCID:

[REDACTED]

Date: Saturday, December 19 2020 09:48 AM

Subject: [Chat #35335]

From: Melissa DeRosa <+ [REDACTED]>

To: Rich Bamberger [REDACTED]

Any luck?

----METADATA INFORMATION----

Device Owner:

+ [REDACTED] Bamberger, Rich

ICCID:

[REDACTED]

Date: Saturday, December 19 2020 09:49 AM

Subject: [Chat #35336]

From: Rich Bamberger

To: + [REDACTED] [Melissa DeRosa];

Went to VM Texted her On another note Josh says Gartland sounds good

----METADATA INFORMATION----

Device Owner:

+ [REDACTED] Bamberger, Rich

ICCID:

[REDACTED]

Date: Saturday, December 19 2020 05:35 PM

Subject: [Chat #35339]

From: Melissa DeRosa <+ [REDACTED]>

To: Rich Bamberger [REDACTED]

W link to story

----METADATA INFORMATION----

Device Owner:

+ [REDACTED] Bamberger, Rich

ICCID:

[REDACTED]



Sun, Dec 13, 10:04 AM

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.

9:16 AM · 12/13/20 · Twitter for iPhone

265 Retweets 115 Quote Tweets 597 Likes



Indiana5 @Indiana510 · 7m
 Replying to @LindseyBoylan and @NYGovCuomo
 For years??? Really??? Why did you stay

Sun, Dec 13, 11:56 AM

Call you back

I have some info. Times union just reached out to Delgado comms director to talk to [redacted]

EXHIBIT 16



< 778



Indiana5 @Indiana510 · 7m
Replying to @LindseyBoylan and @NYGovCuomo

For years??? Really??? Why did you stay

Sun, Dec 13, 11:56 AM

Call you back

I have some info. Times union just reached out to Delgado comms director to talk to [REDACTED] who worked on 2nd floor.

Can I call you later?

From [REDACTED]:

Can you tell bamberger Bernadette Hogan called and I said the same thing I did with Isabel

Ty!

Would she be willing to take



iMessage



1:28

LTE

< 778

From [REDACTED]:

Can you tell bamberger
Bernadette Hogan called and I
said the same thing I did with
Isabel

Ty!

Would she be willing to take
other calls?

I can ask.

Sun, Dec 13, 6:38 PM

How are you doing.

Mon, Dec 14, 10:17 AM

Mark Moralas

MM

Cnn

Mon, Dec 14, 11:24 AM

Can you see if [REDACTED] reached



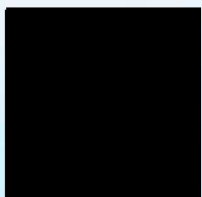
iMessage



1:29

LTE

< 778



I can ask.

Sun, Dec 13, 6:38 PM

How are you doing.

Mon, Dec 14, 10:17 AM

Mark Moralas

Cnn

MM



Mon, Dec 14, 11:24 AM

Can you see if [REDACTED] reached mark
Also can u send me [REDACTED] number

[REDACTED]
Crown castle



Can call in 10

She called no answer.



iMessage



Date: Friday, February 19 2021 10:05 AM

Subject: [Chat #94171]

From: Joshua Vlasto <+ [REDACTED]>

To: + [REDACTED] [Rich Bamberger];

Havent heard from them this am

----METADATA INFORMATION----

Device Owner:

[REDACTED] Josh Vlasto

ICCID:

[REDACTED]

EXHIBIT

17

Date: Friday, February 19 2021 10:05 AM

Subject: [Chat #94172]

From: Joshua Vlasto <+ [REDACTED]>

To: + [REDACTED] [Rich Bamberger];

Which leads me to believe that he is off the reservation again

----METADATA INFORMATION----

Device Owner:

[REDACTED] Josh Vlasto

ICCID:

[REDACTED]

Date: Friday, February 19 2021 10:06 AM

Subject: [Chat #94173]

From: Rich Bamberger <+ [REDACTED]>

To: "+ [REDACTED] [Joshua Vlasto (owner)]"; [REDACTED]@gmail.com [Joshua Vlasto (owner)];

Agreed. I spoke with Dani this morning and today is not gonna be good and it's not gonna get better until he figures it out until then there's nothing we can do except deal with our full-time daytime paying job

----METADATA INFORMATION-----

Device Owner:

[REDACTED] Josh Vlasto

ICCID:

[REDACTED]

My story of working with Governor Cuomo



Lindsey Boylan Feb 24 · 8 min read

“Let’s play strip poker.”

I should have been shocked by the Governor’s crude comment, but I wasn’t.

We were flying home from an October 2017 event in Western New York on his taxpayer-funded jet. He was seated facing me, so close our knees almost touched. His press aide was to my right and a state trooper behind us.

“That’s exactly what I was thinking,” I responded sarcastically and awkwardly. I tried to play it cool. But in that moment, I realized just how acquiescent I had become.

Governor Andrew Cuomo has created a culture within his administration where sexual harassment and bullying is so pervasive that it is not only condoned but expected. His inappropriate behavior toward women was an affirmation that he liked you, that you must be doing something right. He used intimidation to silence his critics. And if you dared to speak up, you would face consequences.

That’s why I panicked on the morning of December 13.

While enjoying a weekend with my husband and six-year-old daughter, I spontaneously decided to share a small part of the truth I had hidden for so long in shame and never planned to disclose. The night before, a former Cuomo staffer confided to me that she, too, had been the subject of the Governor’s workplace harassment. Her story mirrored my own. Seeing his name floated as a potential candidate for U.S. Attorney General — the highest law enforcement official in the land — set me off.

In a few tweets, I told the world what a few close friends, family members and my therapist had known for years: Andrew Cuomo abused his power as Governor to sexually harass me, just as he had done with so many other women.

As messages from journalists buzzed on my phone, I laid in bed unable to move. I finally had decided to speak up, but at what cost?

Parts of a supposed confidential personnel file (which I've never seen) were leaked to the media in an effort to smear me. The Governor's loyalists called around town, asking about me.

Last week, Assemblymember Ron Kim spoke out publicly about the intimidation and abuse he has faced from Governor Cuomo and his aides. As Mayor de Blasio remarked, "the bullying is nothing new." There are many more of us, but most are too afraid to speak up.

I'm compelled to tell my story because no woman should feel forced to hide their experiences of workplace intimidation, harassment and humiliation — not by the Governor or anyone else.

I expect the Governor and his top aides will attempt to further disparage me, just as they've done with Assemblymember Kim. They'd lose their jobs if they didn't protect him. That's how his administration works. I know because I was a part of it.

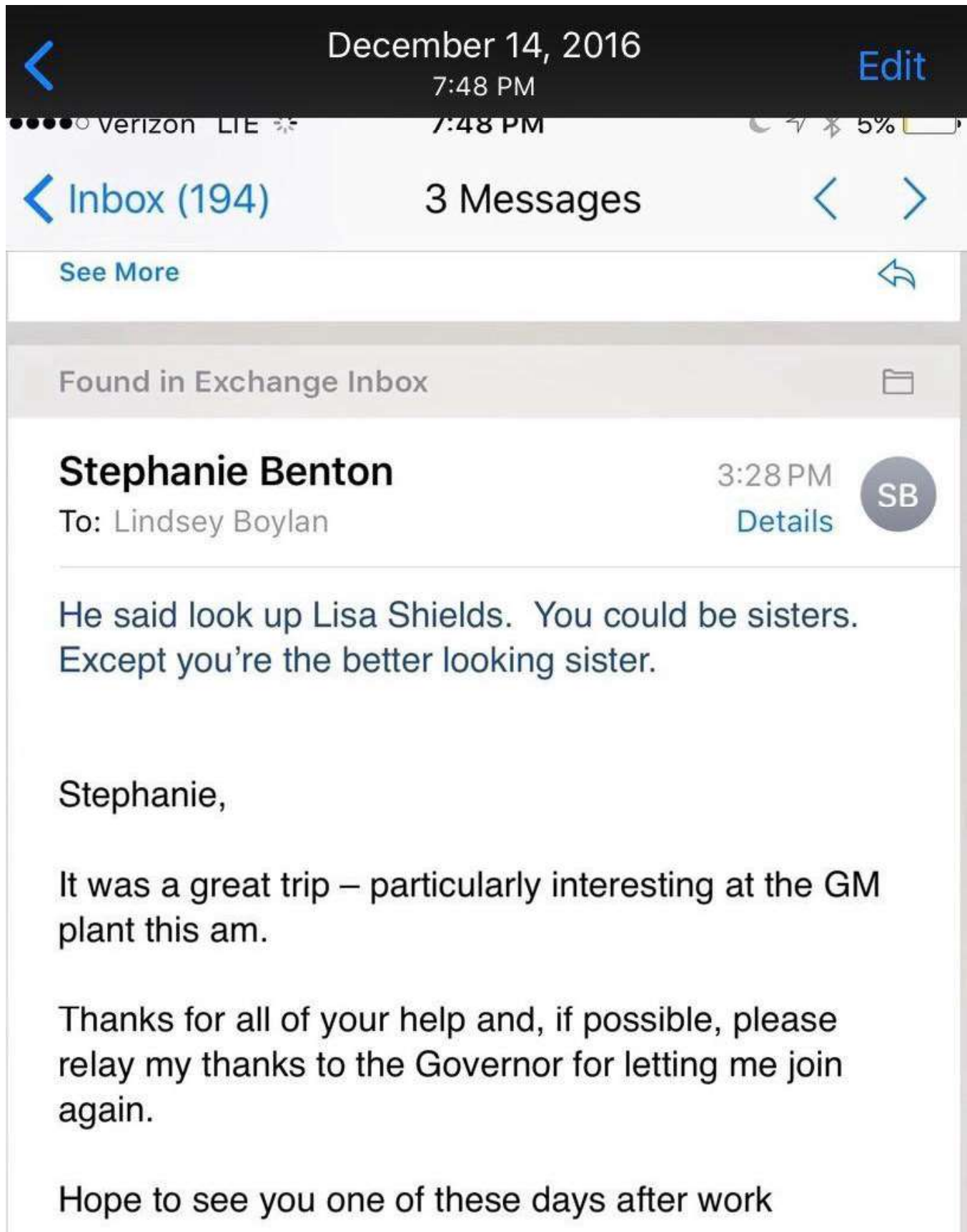
I joined state government in 2015 as a Vice President at Empire State Development. I was quickly promoted to Chief of Staff at the state economic development agency. The news of my appointment prompted a warning from a friend who served as an executive with an influential civic engagement organization: "Be careful around the Governor."

My first encounter with the Governor came at a January 6, 2016, event at Madison Square Garden to promote the new Pennsylvania Station-Farley Complex project. After his speech, he stopped to talk to me. I was new on the job and surprised by how much attention he paid me.

My boss soon informed me that the Governor had a "crush" on me. It was an uncomfortable but all-too-familiar feeling: the struggle to be taken seriously by a powerful man who tied my worth to my body and my appearance.

Stephanie Benton, Director of the Governor's Offices, told me in an email on December 14, 2016 that the Governor suggested I look up images of Lisa Shields — his

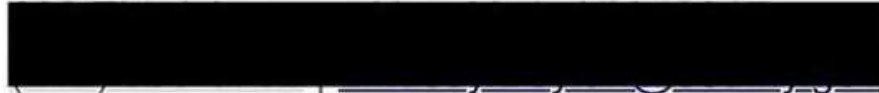
rumored former girlfriend — because “we could be sisters” and I was “the better looking sister.” The Governor began calling me “Lisa” in front of colleagues. It was degrading.



All my best,
Linds

Lindsey Boylan
Chief of Staff

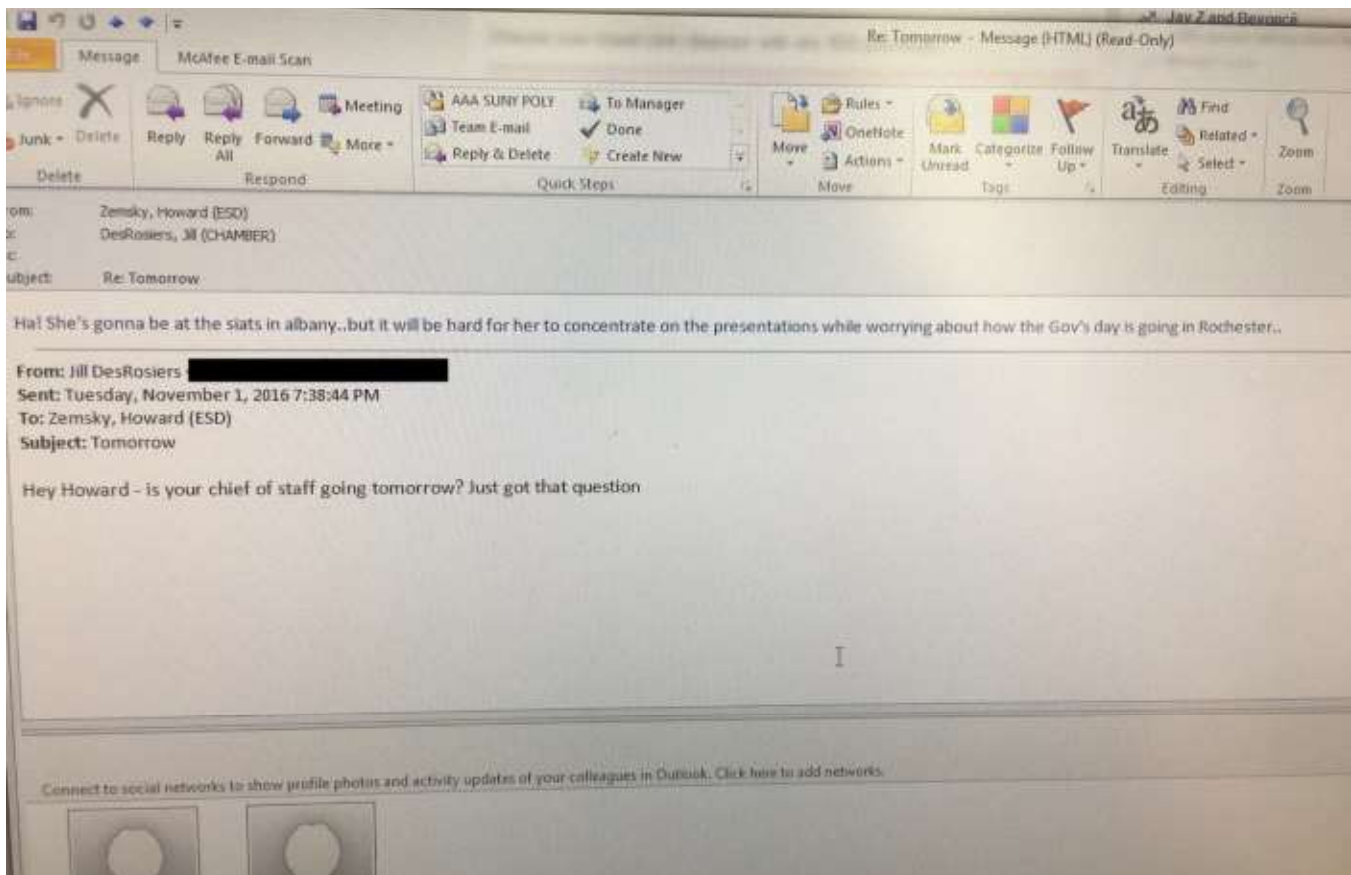
Empire State Development



www.esd.ny.gov

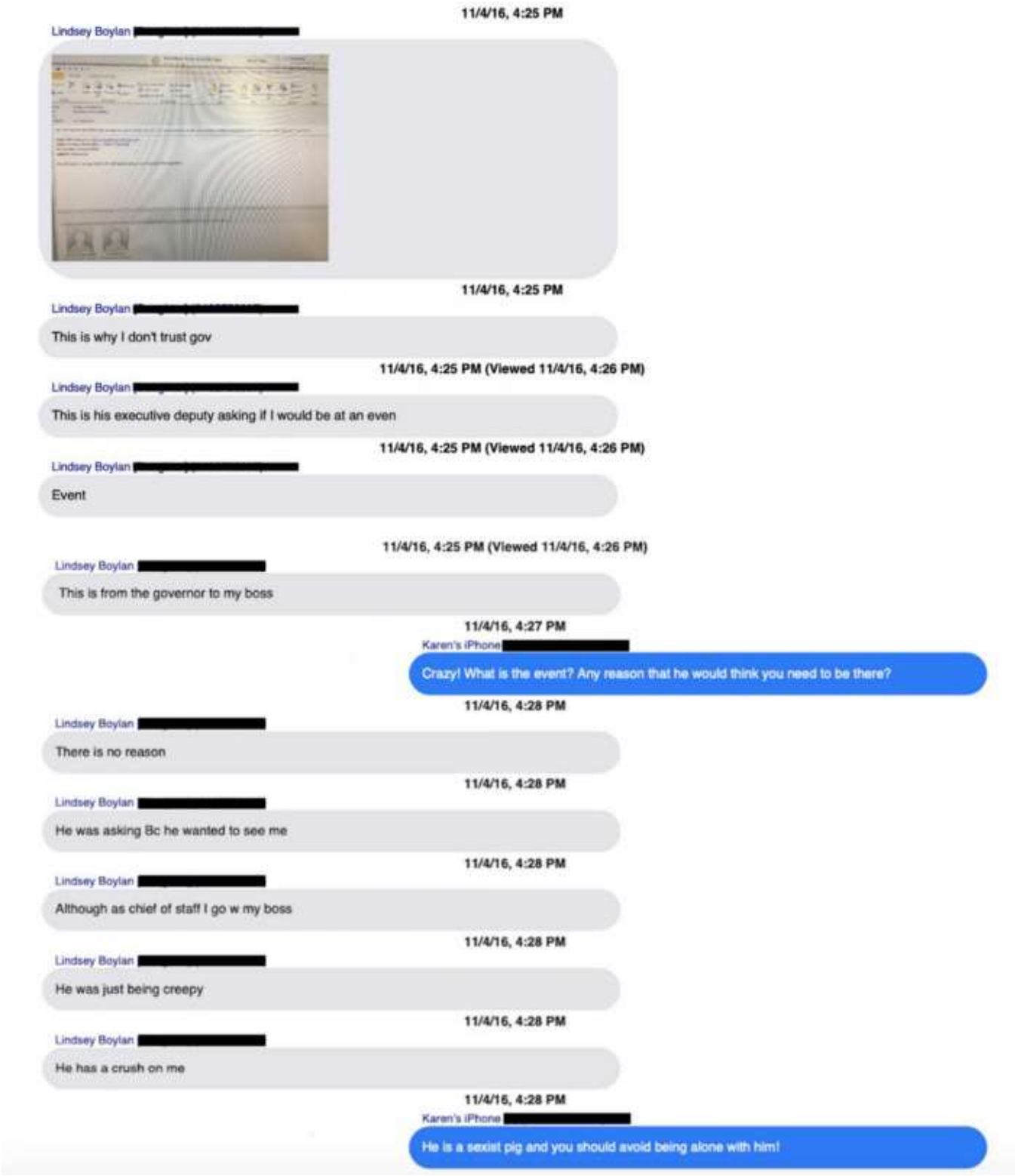
The Governor's staff was directed to tell me I looked like his rumored former girlfriend.

I had complained to friends that the Governor would go out of his way to touch me on my lower back, arms and legs. His senior staff began keeping tabs on my whereabouts. "He is a sexist pig and you should avoid being alone with him!" my mother texted me on November 4, 2016.





The Governor's senior staff member emailed my supervisor about my whereabouts.



I shared my concern with my mother at the time.

The Governor's behavior made me nervous, but I didn't truly fear him until December 2016. Senior State employees gathered at the Empire State Plaza Convention Center in Albany to celebrate the holidays and our year's work. After his remarks, the Governor spotted me in a room filled with hundreds of people waiting to shake his hand. As he began to approach me, I excused myself from coworkers and moved upstairs to a more distant area of the party.

Minutes later, I received a call from an unlisted number. It was the Governor's body person. He told me to come to the Capitol because the Governor wanted to see me.

I made my way through the underground connection that linked the Plaza to the Capitol. As the black wrought-iron elevator took me to the second floor, I called my husband. I told him I was afraid of what might happen. That was unlike me. I was never afraid.

I exited the elevator to see the body person waiting for me. He walked me down the Hall of Governors. "Are there cameras here?" I asked him. I remembered my mother's text warning the month before. I worried that I would be left alone with the Governor. I didn't know why I was there. Or how it would end.

I was escorted into the Governor's office, past the desks of administrative assistants and into a room with a large table and historical artifacts. The door closed behind me. It was my first time in his Albany office. The Governor entered the room from another door. We were alone.

As he showed me around, I tried to maintain my distance. He paused at one point and smirked as he showed off a cigar box. He told me that President Clinton had given it to him while he served as the Secretary of Housing and Urban Development. The two-decade old reference to President Clinton's affair with Monica Lewinsky was not lost on me.

The Governor must have sensed my fear because he finally let me out of the office. I tried to rationalize this incident in my head. At least he didn't touch me. That made me feel safer.

His inappropriate gestures became more frequent. He gave roses to female staffers on Valentine's Day and arranged to have one delivered to me, the only one on my floor. A

signed photograph of the Governor appeared in my closed-door office while I was out. These were not-so-subtle reminders of the Governor exploiting the power dynamic with the women around him.

In 2018, I was promoted to Deputy Secretary for Economic Development and Special Advisor to the Governor. I initially turned the job down — not because I didn't want the responsibility or work but because I didn't want to be near him. I finally accepted the position at the Governor's insistence with one requirement — I would keep my old agency office and remain on a separate floor from him and his inner circle.

The Governor's pervasive harassment extended beyond just me. He made unflattering comments about the weight of female colleagues. He ridiculed them about their romantic relationships and significant others. He said the reasons that men get women were "money and power."

I tried to excuse his behavior. I told myself "it's only words." But that changed after a one-on-one briefing with the Governor to update him on economic and infrastructure projects. We were in his New York City office on Third Avenue. As I got up to leave and walk toward an open door, he stepped in front of me and kissed me on the lips. I was in shock, but I kept walking.

I left past the desk of Stephanie Benton. I was scared she had seen the kiss. The idea that someone might think I held my high-ranking position because of the Governor's "crush" on me was more demeaning than the kiss itself.

After that, my fears worsened. I came to work nauseous every day. My relationship with his senior team — mostly women — grew hostile after I started speaking up for myself. I was reprimanded and told to get in line by his top aides, but I could no longer ignore it.

On September 26, 2018, I sent a mass email informing staff members of my resignation.

There is a part of me that will never forgive myself for being a victim for so long, for trying to ignore behavior that I knew was wrong. The Governor exploited my weaknesses, my desire to do good work and to be respected. I was made to believe this was the world I needed to survive in.

It was all so normalized — particularly by Melissa DeRosa and other top women around him — that only now do I realize how insidious his abuse was.

After my tweets about the Governor in December, two women reached out to me with their own experiences. One described how she lived in constant fear, scared of what would happen to her if she rejected the Governor's advances. The other said she was instructed by the Governor to warn staff members who upset him that their jobs could be at risk. Both told me they are too afraid to speak out.

I know some will brush off my experience as trivial. We are accustomed to powerful men behaving badly when no one is watching. But what does it say about us when everyone is watching and no one says a thing?

Telling my truth isn't about seeking revenge. I was proud to work in the Cuomo Administration. For so long I had looked up to the Governor. But his abusive behavior needs to stop.

I am speaking up because I have the privilege to do so when many others do not. No one should have to be defined or destroyed by this kind of sexual harassment. Nor should they be revictimized if they decide to speak their own truth.

I hope that sharing my story will clear the path for other women to do the same.

Date: Wednesday, December 16 2020 12:28 PM

Subject: [Chat #93248]

From: Joshua Vlasto <+ [REDACTED]>

To: + [REDACTED] [Rich Bamberger];

What did he say?

----METADATA INFORMATION----

Device Owner:

[REDACTED] Josh Vlasto

ICCID:

[REDACTED]

Date: Wednesday, December 16 2020 03:06 PM

Subject: [Chat #93249]

From: Rich Bamberger <+ [REDACTED]>

To: "+ [REDACTED] [Joshua Vlasto (owner)]"; [REDACTED]@gmail.com [Joshua Vlasto (owner)];

Did they pull back on leaking the texts?

----METADATA INFORMATION----

Device Owner:

[REDACTED] Josh Vlasto

ICCID:

[REDACTED]

Date: Wednesday, December 16 2020 03:09 PM

Subject: [Chat #93250]

From: Joshua Vlasto <+ [REDACTED]>

To: + [REDACTED] [Rich Bamberger];

It appears that way

----METADATA INFORMATION----

Device Owner:

[REDACTED] Josh Vlasto

ICCID:

[REDACTED]

Date: Friday, February 26 2021 01:13 PM
Subject: Fwd: STATEMENT FROM PRESS SECRETARY CAITLIN GIROUARD
From: Richard Bamberger <[REDACTED]@gmail.com>
To: Maria Cole [REDACTED]@gmail.com>;
Attachments: noname

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

From: **Press Office** <Press.Office@exec.ny.gov >
Date: Wed, Feb 24, 2021 at 2:20 PM
Subject: STATEMENT FROM PRESS SECRETARY CAITLIN GIROUARD
To: **Rich Bamberger** [REDACTED]



For Immediate Release: 2/24/2021

GOVERNOR ANDREW M. CUOMO

STATEMENT FROM PRESS SECRETARY CAITLIN GIROUARD

"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 Fashouer 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

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 State Development

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
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

###

Additional news available at www.governor.ny.gov
New York State | Executive Chamber | press.office@exec.ny.gov | 518.474.8418

[UNSUBSCRIBE](#)

Date: Friday, February 26 2021 08:49 AM

Subject: [Chat #94309]

From: Rich Bamberger <+ [REDACTED]>

To: "+ [REDACTED] [Joshua Vlasto (owner)]"; [REDACTED]@gmail.com [Joshua Vlasto (owner)]";

Why is Linda calling me

----METADATA INFORMATION----

Device Owner:

[REDACTED] Josh Vlasto

ICCID:

[REDACTED]

EXHIBIT
21

Date: Friday, February 26 2021 08:49 AM

Subject: [Chat #94310]

From: Joshua Vlasto <+ [REDACTED]>

To: + [REDACTED] [Rich Bamberger];

On melissa

----METADATA INFORMATION----

Device Owner:

[REDACTED] Josh Vlasto

ICCID:

[REDACTED]

Date: Friday, February 26 2021 08:49 AM

Subject: [Chat #94311]

From: Joshua Vlasto <+ [REDACTED]>

To: + [REDACTED] [Rich Bamberger];

with Melissa

----METADATA INFORMATION----

Device Owner:

[REDACTED] Josh Vlasto

ICCID:

[REDACTED]

Date: Friday, February 26 2021 08:49 AM

Subject: [Chat #94312]

From: Joshua Vlasto <+ [REDACTED]>

To: + [REDACTED] [Rich Bamberger];

Nothing new hot

----METADATA INFORMATION----

Device Owner:

[REDACTED] Josh Vlasto

ICCID:

[REDACTED]

Date: Friday, February 26 2021 08:49 AM

Subject: [Chat #94313]

From: Joshua Vlasto <+ [REDACTED]>

To: + [REDACTED] [Rich Bamberger];

Yet

----METADATA INFORMATION----

Device Owner:

[REDACTED] Josh Vlasto

ICCID:

[REDACTED]

Date: Friday, February 26 2021 08:49 AM

Subject: [Chat #94314]

From: Joshua Vlasto <+ [REDACTED]>

To: + [REDACTED] [Rich Bamberger];

Probably to try and find people to help

----METADATA INFORMATION-----

Device Owner:

[REDACTED] Josh Vlasto

ICCID:

[REDACTED]



RB

2 People >

Wed, Mar 17, 5:51 PM

Confirmed with Ronan that rich is just called reporters to tell them to call the Govs office

Rich Bamberger

RB

K

Maggie Moran



When is story posting?

He's still fumbling with it seems

And I am doing a round with the factvchecker

So I can't imaging until tomorrow

Rich Bamberger

RB

Have them spell my name wrong

Wed, Mar 17, 7:20 PM

EXHIBIT 22

Confirmed it with the fact checker

Rich Bamberger

You know if the tone is that i was pushing reporters to them to get



iMessage





RB

2 People >

Rich Bamberger

RB

You know if the tone is that i was pushing reporters to them to get docs - or just helping out

Yes governor. I got it

Rich Bamberger

RB

Ha.
Sorry
A little pushy tonight



RB

Lindsey Boylan won't cooperate with 'sham' Cuomo impeachment probe

nypost.com

Maggie Moran

I didn't respond to Carl campinale email today. Is that what u guys



iMessage





RB

2 People >

Maggie Moran



I didn't respond to Carl campinale email today. Is that what u guys recommend? Any other word on Bernadette josh?

Nothing new from Bernadette on your end

So I think that's fine for now

Thu, Mar 18, 7:45 AM

Rich Bamberger

I keep hearing that there is a letter story coming out. I wrote a draft comment below. I'm up for comments but i would need to get truth out and separate myself from all of this:

"I had no role in writing any letter, and I did not shop around any letter. I wholeheartedly support the investigation, and believe that swift action should be taken based on any findings."

RB



iMessage





RB

2 People >

Ah, the [redacted] gambit.
Let's discuss

Rich Bamberger

RB

Is Vielkind still pushing letter?

Maggie Moran

The any letter mention twice seems tone deaf to me as a woman. It's not any letter. It's a letter defaming a woman making an accusation. It has to be more. I support the women who have come forward and they must get a fair investigation. There have been rumors that I was personally involved in efforts to undermine one victim and they are patently false. I would engage in that, didn't have a hand in writing any content related to that and didn't circulate any information of that nature.



I wouldn't engage in that

Rich Bamberger

RB

K
I'll tweak now



iMessage





RB

2 People >

RB

K
I'll tweak now

Vielkind told me and the Govs press office separately that he is not writing a story on the letter

Maggie Moran

Did anyone ask u for this? And let's stay tight on this. I need to know before any quote is given anywhere. And we have to think about if u have to give a quote is what I wrote even strong enough above b



Bernadette is still kicking it around but is not mentioning you

and as best I can tell no one else is talking about it but let's see how the day goes and reaction to Ronan (if any)

Rich Bamberger

K
No ask from anyone
Just having a statement ready.
And nothing goes with all approve



iMessage





RB

2 People >

Rich Bamberger

RB

K
No ask from anyone
Just having a statement ready.
And nothing goes with all approve

RB

I support the women who have come forward as well as the investigation, and believe that swift action should be taken based on any findings. There have been rumors that I was personally involved in efforts to write a letter to undermine one victim, and those rumors are patently false.

Maggie Moran



Questions that come after a statement- Do you think the Governor should resign? Do you regret having worked for him? Isn't it true that you told reporters to expect a statement from the admin? So maybe you didn't write the letter but u did help them execute on their strategy right?



iMessage





RB

2 People >

Waiting the results of the investigation

No regrets

It was a weekend and I was asked to help an overwhelmed press staff point reporters to the Gov press office for a statement. I didn't release anything.

I never shopped around any materials. (I did give to one person who proactively reached out to me wanting to get her experience out)

RB

On last - it went no where but she did talk to reporters on her own with positive experiences prior to coming to me

RB

Maggie Moran

Did you know they were handing out a hit job letter on Lindsay? U did this once before with the gov on liz Benjamin right? (I know this is a cheap shot but they love



iMessage





RB

2 People >

Maggie Moran

Did you know they were handing out a hit job letter on Lindsay? U did this once before with the gov on liz Benjamin right? (I know this is a cheap shot but they love trying to show patterns of behavior cuomo people at it again if they disagree with you they try and take u down)



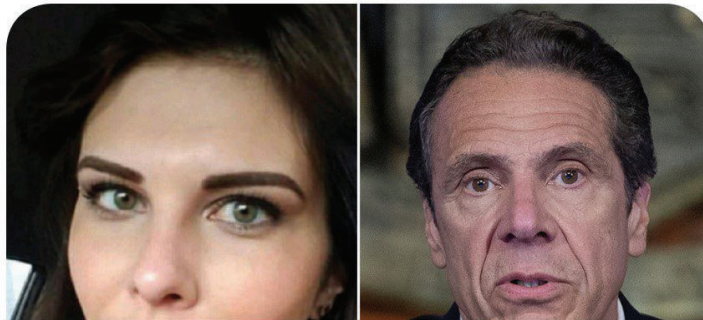
Rich Bamberger

I did not know specifics of statement and did not see statement.

Good Q - Josh mentioned yesterday: The Liz thing was solely notes about content of stories. It was my job to debate content.

RB

Thu, Mar 18, 10:45 AM



iMessage



6:07



RB

2 People >

Thu, Mar 18, 10:45 AM



Reporter details 'uncomfortable' encounters with Gov. Cuomo

nypost.com



Women Reporters Faced Cuomo's Creepy Behavior, Too

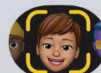
thedailybeast.com

Thu, Mar 18, 4:17 PM

Talked to Ronan. Nothing new on



iMessage



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Exempt from Disclosure Under FOIL, N. Y. Pub. Off. Law § 87(2)

NYAGV000054



RB

2 People >

Talked to Ronan. Nothing new on any front. Can't see the story running today.

Rich Bamberger

RB

Running tonight

Thu, Mar 18, 10:01 PM

Ronan going live shortlt

He's on gma tomorrow



Cuomo's First Accuser Raises New Claims of Harassment and Retaliation

newyorker.com

Maggie Moran

Did he tell u the firm would be in the story? Let's watch Twitter and see if we now start getting



iMessage





RB

2 People >

Maggie Moran

Did he tell u the firm would be in the story? Let's watch Twitter and see if we now start getting stalked ... and pls keep me posted on the reporters who didn't report rich's name and their reaction.



Rich it doesn't say that u didn't know what they were circulating



On the other line will call u back



Can u get the line fixed to create more clarity or no it's over?

he didnt

Maggie Moran



He didn't what?

Say he was mentioning the firm

Maggie Moran

Well it really fucking sucks. Rich I need to clear my head. I will call you back in the morning. [REDACTED] will monitor our staff. And she will



iMessage





RB

2 People >

Maggie Moran



He didn't what?

Say he was mentioning the firm

Maggie Moran

Well it really fucking sucks. Rich I need to clear my head. I will call you back in the morning. [REDACTED] will monitor our staff. And she will make sure it's not in our internal clips. Let's see how badly we start getting trolled by activists ... and if Kivvit gets mentioned on GMA tomorrow morning I will lose my mind. So if there is a way to avoid that let's try and get that done.



Thu, Mar 18, 11:48 PM

Maggie Moran

[REDACTED] is setting up trackers on mention of rich and Kivvit on social tomorrow. And we can use some tools to see how far the reach of article is and maybe even any focus on us.



iMessage



Date: Sunday, February 28 2021 01:27 PM

Subject: [Chat #94342]

From: Joshua Vlasto <+ [REDACTED]>

To: + [REDACTED] [Rich Bamberger];

It's over

----METADATA INFORMATION----

Device Owner:

[REDACTED] Josh Vlasto

ICCID:

[REDACTED]

EXHIBIT

23

Date: Sunday, February 28 2021 01:28 PM

Subject: [Chat #94343]

From: Rich Bamberger <+██████████>

To: "+██████████ [Joshua Vlasto (owner)]"; ██████████@gmail.com [Joshua Vlasto (owner)];

What u hearing ?

----METADATA INFORMATION-----

Device Owner:

██████████ Josh Vlasto

ICCID:

████████████████████

Date: Sunday, February 28 2021 01:28 PM

Subject: [Chat #94344]

From: Joshua Vlasto <+ [REDACTED]>

To: + [REDACTED] [Rich Bamberger];

On with them

----METADATA INFORMATION----

Device Owner:

[REDACTED] Josh Vlasto

ICCID:

[REDACTED]

Date: Sunday, February 28 2021 03:05 PM

Subject: [Chat #94345]

From: Rich Bamberger <+ [REDACTED]>

To: "+ [REDACTED] [Joshua Vlasto (owner)]"; [REDACTED]@gmail.com [Joshua Vlasto (owner)];

When is the next story coming out?

----METADATA INFORMATION-----

Device Owner:

[REDACTED] Josh Vlasto

ICCID:

[REDACTED]

Date: Sunday, February 28 2021 03:06 PM

Subject: [Chat #94346]

From: Joshua Vlasto <+ [REDACTED]>

To: + [REDACTED] [Rich Bamberger];

Unclear

----METADATA INFORMATION----

Device Owner:

[REDACTED] Josh Vlasto

ICCID:

[REDACTED]

Date: Sunday, February 28 2021 03:40 PM

Subject: [Chat #94347]

From: Rich Bamberger <+ [REDACTED]>

To: "+ [REDACTED] [Joshua Vlasto (owner)]"; [REDACTED]@gmail.com [Joshua Vlasto (owner)];

Call when can

----METADATA INFORMATION-----

Device Owner:

[REDACTED] Josh Vlasto

ICCID:

[REDACTED]

Date: Thursday, March 4 2021 11:52 AM

Subject: [Chat #59299]

From: Rich Azzopardi <+ [REDACTED]>

To: Rich Bamberger [REDACTED]

ireless 4G LTE network. From: Kaplan, Michael Sent: Thursday, March 4, 2021 11:21 AM To: Abramowitz, Elkan; Richard Azzopardi Cc: [REDACTED]; Press Office; [REDACTED] Subject: Re: CBS News Request for Gov. Cuomo Hi Richard and Elkan, We are planning on imminently airing Norah's on-camera interview with Gov. Cuomo's former executive assistant Charlotte Bennett. As such, we would like to give Gov. Cuomo the opportunity to respond to allegations made by Ms. Bennett. Specifically, we would like Gov. Cuomo to address the following:

- Gov. Cuomo's views on his relationship with Ms. Bennett.
- Gov. Cuomo's private conversations with Ms. Bennett on May 15, June 5, and June 6 of last year. In those conversations, Ms. Bennett says Gov. Cuomo sexually harassed her, by asking her about her romantic status, commenting on her physical appearance, conveying to her his age preferences when looking for a partner, and inquiring whether she ever had sex with an older man.
- Ms. Bennett alleges Gov. Cuomo fixated on her status as a survivor of sexual assault as part of an effort to groom her, in effect building up their relationship so he could manipulate, exploit and ultimately harass and abuse her. She also alleges Gov. Cuomo asked her if she struggled with intimacy due to her trauma.
- Whether Chief of Staff Jill DesRosiers and General Counsel Judith Mogul violated their legal requirements by failing to report Ms. Bennett's allegations to the Governor's Office of Employee Relations when she presented them, and instead transferred Ms. Bennett to a new role.
- 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.
- Whether Gov. Cuomo personally completed his state-required sexual harassment training course in 2019.

Please respond to our request by 3p ET today. Thank you.

----METADATA INFORMATION----

Device Owner:

+ [REDACTED] Bamberger, Rich

ICCID:

[REDACTED]

EXHIBIT

24

Cuomo Accused of Unwanted Advance at a Wedding: 'Can I Kiss You?'

The young woman's account follows two separate accusations that Gov. Andrew Cuomo sexually harassed two female state employees.



By Matt Flegenheimer and Jesse McKinley

Published March 1, 2021 Updated March 16, 2021

Anna Ruch had never met Gov. Andrew M. Cuomo before encountering him at a crowded New York City wedding reception in September 2019. Her first impression was positive enough.

The governor was working the room after toasting the newlyweds, and when he came upon Ms. Ruch, now 33, she thanked him for his kind words about her friends. But what happened next instantly unsettled her: Mr. Cuomo put his hand on Ms. Ruch's bare lower back, she said in an interview on Monday.

When she removed his hand with her own, Ms. Ruch recalled, the governor remarked that she seemed "aggressive" and placed his hands on her cheeks. He asked if he could kiss her, loudly enough for a friend standing nearby to hear. Ms. Ruch was bewildered by the entreaty, she said, and pulled away as the governor drew closer.

"I was so confused and shocked and embarrassed," said Ms. Ruch, whose recollection was corroborated by the friend, contemporaneous text messages and photographs from the event. "I turned my head away and didn't have words in that moment."



Anna Ruch said she felt "uncomfortable and embarrassed" when Mr. Cuomo placed his hands on her face and asked to kiss her.

Ms. Ruch's account comes after two former aides accused Mr. Cuomo of sexual harassment in the workplace, plunging his third term into turmoil as the governor's defenders and Mr. Cuomo himself strain to explain his behavior.

A spokesman for the governor did not directly address Ms. Ruch's account, referring to a general statement that Mr. Cuomo released on Sunday night in which he acknowledged that some things he had said "have been misinterpreted as an unwanted flirtation."

"To the extent anyone felt that way, I am truly sorry about that," the statement said.

Ms. Ruch's example is distinct from those of the former aides: A former member of the Obama administration and the 2020 Biden campaign, Ms. Ruch has never been employed by the governor or the state. But her experience reinforces the escalating concerns and accusations about Mr. Cuomo's personal conduct — a pattern of words and actions that have, at minimum, made three women who are decades his junior feel deeply uncomfortable, in their collective telling.

Exactly a year after the state's first confirmed coronavirus case — the dawn of a crisis that eventually propelled Mr. Cuomo to national Democratic stardom — the governor was silent on Monday, even as the fallout continued to shadow his beleaguered administration.

His accusers were not quiet, however: Charlotte Bennett, a former aide who accused Mr. Cuomo of sexual harassment, issued her first public statement since outlining her claims in a New York Times article, saying that the apology and attempted explanation issued by the governor on Sunday night was woefully inadequate.

"These are not the actions of someone who simply feels misunderstood," Ms. Bennett wrote. "They are the actions of an individual who wields his power to avoid justice."

Ms. Bennett also called on other women, if they had similar stories about Mr. Cuomo, to come forward. "If you choose to speak your truth, we will be standing with you," she said. "I promise."

At the same time, the initial stages of a pending investigation into Mr. Cuomo's actions were underway inside the offices of the state attorney general, Letitia James, who was evaluating options for an outside investigator.

In the statement released on Sunday evening, Mr. Cuomo addressed his behavior, including "some of my past interactions with people in the office," saying that he had often teased and bantered with his underlings, "being playful" in what he called "a very serious business."

That, he suggested, had been misconstrued.

"I now understand that my interactions may have been insensitive or too personal and that some of my comments, given my position, made others feel in ways I never intended," he said.

A lawyer for Ms. Bennett, Debra S. Katz, cast doubt on the governor's initial suggestion, released in a statement on Saturday night, that his relationship to Ms. Bennett was of a mentor to his employee, nearly four decades his junior.

"He was not acting as a mentor, and his remarks were not misunderstood by Ms. Bennett," said Ms. Katz, who specializes in harassment and employment discrimination and represented Christine Blasey Ford in the Supreme Court confirmation hearings of Brett M. Kavanaugh.

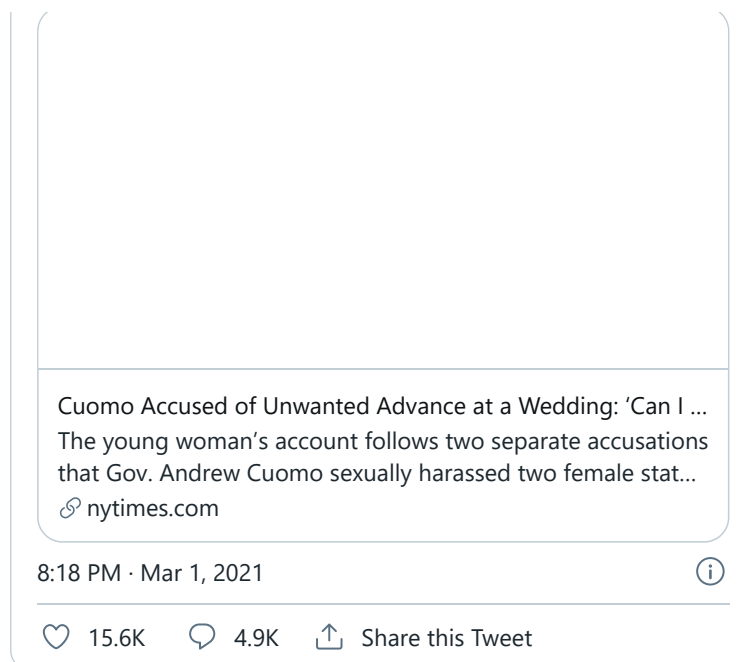
"He was abusing his power over her for sex," Ms. Katz said. "This is textbook sexual harassment."

Indeed, on Monday, Mr. Cuomo's contrition — a rarity in his decade-long tenure — was rejected by some other New York Democrats, including Mayor Bill de Blasio of New York, who said that the governor's statement was "not an apology."

"He seemed to be saying, 'Aw, I was just kidding around,'" Mr. de Blasio said. "Sexual harassment isn't funny. It's serious and it has to be taken seriously."

On Monday night, Representative Kathleen Rice, a former Nassau County district attorney, became the first Democrat in New York's congressional delegation to call for Mr. Cuomo to resign.





The political woes of Mr. Cuomo — already under fire for his handling of nursing homes in the pandemic and his abrasive approach to governance — deepened last week when Lindsey Boylan, a former top economic development official, posted a lengthy essay outlining a workplace environment where “sexual harassment and bullying is so pervasive that it is not only condoned but expected.”

She described a series of uncomfortable interactions with Mr. Cuomo, including an unsolicited kiss in 2018, which the governor has strenuously denied.

Then, on Saturday, Ms. Bennett recalled her own encounters with Mr. Cuomo in the spring, when she said the governor asked her personal questions, including whether she had slept with older men, whether she was monogamous, and whether she thought age mattered in relationships. Ms. Bennett is 25; the governor is 63.

The interactions, which Ms. Bennett described in a series of interviews with The Times, left her certain that the governor was suggesting a sexual relationship.

“I understood that the governor wanted to sleep with me,” Ms. Bennett told The Times, saying she felt scared and upset. “And was wondering how I was going to get out of it.”

For Ms. Ruch, the circumstances were different, her exchange with the governor taking place at a well-attended celebration far from any official setting. In fact, the episode’s highly visible nature made it all the more jarring, she suggested. She recalled Mr. Cuomo moving his hand to the small of her back — exposed in an open-back dress — within moments of their being introduced and shaking hands at the reception.

Ms. Ruch said that touch, on her bare skin, discomfited her. “I promptly removed his hand with my hand, which I would have thought was a clear enough indicator that I was not wanting him to touch me,” she said.

Instead, Ms. Ruch said, Mr. Cuomo called her “aggressive” and placed his hands on her cheeks.

“He said, ‘Can I kiss you?’” Ms. Ruch said. “I felt so uncomfortable and embarrassed when really he is the one who should have been embarrassed.” (A friend captured the exchange in a series of photographs taken on Ms. Ruch’s cellphone.)

Shaken, Ms. Ruch said, she later had to ask a friend if Mr. Cuomo's lips had made contact with her face as she pulled away. The governor had kissed her cheek, she was told.

"It's the act of impunity that strikes me," Ms. Ruch said. "I didn't have a choice in that matter. I didn't have a choice in his physical dominance over me at that moment. And that's what infuriates me. And even with what I could do, removing his hand from my lower back, even doing that was not clear enough."

Unnerved and baffled, Ms. Ruch said, she posed for a photograph with Mr. Cuomo afterward. Once the governor walked away, Ms. Ruch's friend approached her with a look of alarm.

"It was when my friend looked at me and said 'Are you OK?' with such genuine concern in her face that I realized how obviously inappropriate it was," Ms. Ruch said, "not only to me but to those around me as well."

In a text message a day or so later to the friend, Ms. Ruch wrote "I'm so pissed," referring to the governor as "this guy," with an epithet in that description.

After collecting herself later that night, Ms. Ruch said, she had hoped to speak with the governor before he left the reception and confront him about his behavior.

But by then, she said, she could not find him.

"I would have rather just said it that night," she said. "I wanted to say, 'That wasn't OK.'"

Matt Flegenheimer is a reporter covering national politics. He started at The Times in 2011 on the Metro desk covering transit, City Hall and campaigns. @mattfleg

Jesse McKinley is the Albany bureau chief. He was previously the San Francisco bureau chief, and a theater columnist and Broadway reporter for the Culture desk. @jessemckinley

A version of this article appears in print on , Section A, Page 1 of the New York edition with the headline: Wedding Guest Asserts Cuomo Unsettled Her

Date: Sunday, March 7 2021 08:38 AM

Subject: [Chat #114218]

From: Josh Vlasto <+ [REDACTED]>

To: Rich Bamberger [REDACTED]

Good to go

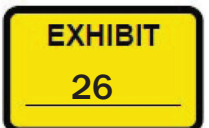
----METADATA INFORMATION----

Device Owner:

+ [REDACTED] Bamberger, Rich

ICCID:

[REDACTED]



Date: Sunday, March 7 2021 08:38 AM

Subject: [Chat #114219]

From: Josh Vlasto <+ [REDACTED]>

To: Rich Bamberger [REDACTED]

I'll think of names too and can make calls

----METADATA INFORMATION----

Device Owner:

+ [REDACTED] Bamberger, Rich

ICCID:

[REDACTED]

Date: Sunday, March 7 2021 08:54 AM

Subject: [Chat #114220]

From: Rich Bamberger

To: + [redacted] [Josh Vlasto];

Apparently Cohen was working on the beginnings of a letter for someone to sign on - can you see what he did already?

----METADATA INFORMATION----

Device Owner:

+ [redacted] Bamberger, Rich

ICCID:

[redacted]

Date: Sunday, March 7 2021 08:56 AM

Subject: [Chat #114221]

From: Josh Vlasto <+ [REDACTED]>

To: Rich Bamberger [REDACTED]

Will do

----METADATA INFORMATION----

Device Owner:

+ [REDACTED] Bamberger, Rich

ICCID:

[REDACTED]

Date: Sunday, March 7 2021 09:25 AM

Subject: [Chat #114222]

From: Josh Vlasto <+ [REDACTED]>

To: Rich Bamberger [REDACTED]

He said he hadn't

----METADATA INFORMATION----

Device Owner:

+ [REDACTED] Bamberger, Rich

ICCID:

[REDACTED]

Date: Sunday, March 7 2021 09:25 AM

Subject: [Chat #114223]

From: Josh Vlasto <+ [REDACTED]>

To: Rich Bamberger [REDACTED]

And was grumpy

----METADATA INFORMATION----

Device Owner:

+ [REDACTED] Bamberger, Rich

ICCID:

[REDACTED]

Date: Sunday, March 7 2021 12:53 PM

Subject: [Chat #114224]

From: Rich Bamberger

To: + [redacted] [Josh Vlasto];

People think he's resigning

----METADATA INFORMATION----

Device Owner:

+ [redacted] Bamberger, Rich

ICCID:

[redacted]

Date: Sunday, March 7 2021 12:53 PM

Subject: [Chat #114225]

From: Josh Vlasto <+ [REDACTED]>

To: Rich Bamberger [REDACTED]

Not yet

----METADATA INFORMATION----

Device Owner:

+ [REDACTED] Bamberger, Rich

ICCID:

[REDACTED]

Date: Sunday, March 14 2021 11:17 AM

Subject: [Chat #37428]

From: Rich Bamberger

To: + [redacted] [Maggie Moran]; + [redacted] [Josh Vlasto];

60 minutes just said they are hearing a big story is coming but wouldn't give any details. Maria and Madeleine keep calling me to pitch opeds from family friends - but i not going to.

----METADATA INFORMATION----

Device Owner:

+ [redacted] Bamberger, Rich

ICCID:

[redacted]



Message

From: Redacted in original production
Sent: 3/11/2021 12:37:56 AM
To: Richard Bamberger [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=ef09293cb56b44e58225c2f3c7e08775-rbamberger]
Subject: Re: TU

External Redacted in original production

[Report This Email](#) [FAQ](#) [Protection by INKY](#)

Thanks. Ugh.

Sent from my iPhone

On Mar 10, 2021, at 7:02 PM, Richard Bamberger [REDACTED]@kivvit.com> wrote:

WARNING – External Sender

Female aide said Cuomo aggressively groped her at the governor's mansion
Cuomo issues denial but describes details of woman's account as 'gut-wrenching'

[Brendan J. Lyons](#)

March 10, 2021 Updated: March 10, 2021 6:42 p.m.

<image001.jpg>

Gov. Andrew M. Cuomo in Syracuse on Tuesday, just hours before new sexual harassment allegations against him were reported. (Office of the Governor)

Mike Groll/Mike Groll/Office of Governor An

ALBANY — A female aide to [Gov. Andrew M. Cuomo](#) alleges he aggressively groped her in a sexually charged manner after she had been summoned to the governor's mansion late last year, according to a person with direct knowledge of the woman's claims.

The staff member, whose identity is being withheld by the Times Union, had been called to the mansion under the apparent pretext of having her assist the governor with a minor technical issue involving his mobile phone. They were [alone in Cuomo's private residence](#) on the second floor of the mansion when he closed the door and allegedly reached under her blouse and began to fondle her, according to the source.

The person, who is not authorized to comment publicly, said the woman — who is much younger than Cuomo — told the governor to stop. Her broader allegations include that he frequently engaged in flirtatious behavior with her, and that it was not the only time that he had touched her.

The story so far

A reputation for bullying: [For Cuomo, hardball tactics, intimidation and now allegations of harassment](#)

Under investigation: [AG confirms referral from Cuomo, harassment investigation to begin](#)

EXHIBIT
28

Gov. Cuomo responds: [Cuomo says he won't resign in wake of more allegations of inappropriate behavior](#)

Losing Democratic support: [Senate Majority Leader Andrea Stewart-Cousins tells Cuomo to resign](#)

GOP calls for impeachment: [The GOP wants Cuomo impeached. So how would that work?](#)

The woman's story was revealed within the governor's Executive Chamber on March 3, as staff members watched his first news conference in the week since Lindsey Boylan published an online essay detailing her own allegations against Cuomo. In the news conference, the governor denied ever touching any women "inappropriately."

Hearing those remarks, the female aide became emotional. At least one female supervisor came to her aide and asked her why she was upset. The female aide subsequently told the supervisor what she said had been inappropriate encounters with Cuomo, the source said.

In response to the Times Union's questions about the allegations, Cuomo on Wednesday evening issued a statement to the newspaper: "As I said yesterday, I have never done anything like this. The details of this report are gut-wrenching. I am not going to speak to the specifics of this or any other allegation given the ongoing review, but I am confident in the result of the attorney general's report."

ADVERTISING

The woman's allegations, [first reported Tuesday by the Times Union](#), are the most egregious claims the governor has faced as multiple women have come forward since December and accused him of sexual harassment or inappropriate behavior.

In the most recent case, at least one of the woman's supervisors reported the allegations to an attorney in the governor's office on Monday.

On Tuesday afternoon, several hours after Cuomo's office had been asked about the matter by the Times Union, the governor said, "I'm not aware of any other claim," when he was asked by a reporter about the new story, which by then had been published online. That story included a statement from his acting counsel, Beth Garvey, who said that "all allegations" of sexual harassment made against the governor were being referred to the state attorney general's office.

"As I said last week, this is very simple: I never touched anyone inappropriately," the governor said Tuesday. "I never made any inappropriate advances ... (and) no one ever told me at the time that I made them feel uncomfortable. Obviously, there are people who said after the fact they felt uncomfortable."

ADVERTISING

The woman has not filed a formal complaint with the governor's office.

State Attorney General Letitia James' office is [investigating multiple harassment allegations](#) against Cuomo on the basis of a referral letter that Garvey, his counsel, requested in a March 1 letter.

This week, James announced the investigation will be handled by two private attorneys: Joon H. Kim, a former acting U.S. attorney for New York's Southern District in Manhattan, and Anne L. Clark, who specializes in labor law and sexual harassment cases.

Aides to the governor on Tuesday said the governor stands by his statements that he never touched anyone inappropriately. They would not explain the governor's statement that he was unaware of the latest allegation against him.

The latest allegations by the woman who reported she had been groped by Cuomo at the governor's mansion have escalated the severity of the accusations: The conduct she has described could potentially be pursued as a misdemeanor sexual assault charge.

On Wednesday morning, the attorney general's office declined to comment in response to detailed questions about how that office, which does not have statutory jurisdiction on any criminal component of the case, would be handled. Garvey's March 1 letter to the attorney general invoked a section of Executive Law that empowers the attorney general's office to conduct a civil investigation with the aid of office subpoenas, but not to pursue a criminal case or to bring the allegations before a grand jury.

If a criminal complaint is made, by Boylan or the female aide who alleges he groped her at the mansion, those cases could potentially be handled by the offices of Albany County District Attorney David Soares or Manhattan District Attorney Cy Vance.

The new allegations that came to light Tuesday immediately intensified the pressure from many lawmakers — including Cuomo's fellow Democrats — for the governor to resign. He had already faced

calls to step down from state Senate Majority Leader Andrea Stewart-Cousins, and Assembly Speaker Carl E. Heastie had issued a statement Sunday questioning Cuomo's ability to remain an effective leader. Republicans in the Legislature have been more forceful in their remarks. Senate Minority Leader Robert Ort on Tuesday characterized the latest allegation as "a disturbing pattern of predatory pattern behavior by Gov. Cuomo, not to mention a pattern of lies and broken public trust."

The initial allegations were made by three women — Boylan as well as Charlotte Bennett and Anna Ruch, who did not work for Cuomo but told the New York Times last week that the governor grabbed her and attempted to kiss her at the 2019 wedding of one of his senior aides, Gareth Rhodes.

6

<image002.jpg>

1of6Buy PhotoThe New York State Executive Mansion is viewed through a fence on Tuesday, March 9, 2021, on Eagle Street in Albany, N.Y. (Will Waldron/Times Union)Will Waldron/Albany Times Union

<image003.jpg>

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Bennett told the New York Times that Cuomo, during an encounter in his Capitol office last June, talked about being lonely during the pandemic and that he had missed being able to hug someone. She said that Cuomo never tried to touch her. Bennett, in another interview with CBS News, also recounted being alone with Cuomo at the mansion and said that he had asked her probing questions about her personal life but did not touch her.

Debra Katz, Bennett's attorney, issued a statement in response to this story late Wednesday saying the allegations by the female aide are "eerily similar to what Charlotte Bennett has alleged."

<!--[if !vml]-->

<image005.png>

<!--[endif]-->

Read More

"Charlotte was summoned to the Capitol on a Saturday, left isolated with the governor and asked to help him with minor technical issues with his phone. Charlotte reported this behavior and the Governor's sexual proposition to his most senior aides, including his Special Counsel, Judith Mogul. In response, those aides failed to report Charlotte's claims to the Governor's Office of Employee Relations, as they were legally required," Bennett continued. "Had the governor's staff taken Charlotte Bennett's allegations and their legal obligations seriously, perhaps this woman would have been spared of this sexual assault. That the governor does not deny touching people, but insists he never did it inappropriately, shows he is committed to gaslighting victims and perpetuating these lies. This is exactly how abusers operate."

Over the weekend, in stories published by the Washington Post and Wall Street Journal, two more women came forward and described what they characterized as inappropriate behavior by Cuomo, including Karen Hinton, who worked with the governor more than two decades ago at the U.S. Housing and Urban Development agency.

Rich Bamberger
Managing Director
Kivvit
Office: [REDACTED]

Cell: [REDACTED]

Message

From: Redacted in original production

Sent: 3/3/2021 6:33:28 PM

To: Redacted in original production

Redacted in original production [Redacted] [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=f3a586b323e24df69c0564054c251309-Redacted]; Redacted in original production

Redacted in original production Richard Bamberger [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=ef09293cb56b44e58225c2f3c7e08775-rbamberger]; Redacted in original production

Redacted in original production [Redacted] [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=05f7f488b2f14315aaa36be262abd603-Redacted]; Redacted in original production

Redacted in original production

CC: Redacted in original production

Subject: Re: Redacted in original production

External Redacted in original production

[Report This Email](#) [FAQ](#) [Protection by INKY](#)

Redacted in original production

Thank you for sharing the article.

Redacted in original production

There are only two places where this can get fixed now: the governor's office or the legislature. Given the other troubles facing the governor I question if he will have either the will or the focus to save us at this very late date. He is in an existential fight for his political life, and I'm guessing that our issue is not exactly top of mind for him. Redacted in original production

To me that means we need to focus on the legislature, Redacted in original production

Redacted in original production

Redacted in original production

Redacted in original production

From: Redacted in original production

Sent: Wednesday, March 3, 2021 11:28 AM

To: Redacted in original production

Redacted in original production

@kivvit.com>

Redacted in original production

Redacted in original production

Richard Bamberger

<@kivvit.com>;

Redacted in original production

Redacted in original production

@kivvit.com>

Redacted in original production

Redacted in original production

Subject: RE: Redacted in original production

Attention: This email came from an external source. Do not click links or open attachments unless you recognize the source of the email and know the contents are safe.

Hi All,

Given the positive forecasts of increased revenues for NYS Budget, as articulated in this article,

<https://www.thecity.nyc/2021/3/2/22310254/cuomo-sex-harrassment-state-budget-taxes-biden>, how can we amplify this message and leverage it to get Redacted in original production

Please add this to our agenda for further discussion and strategic action.

Thanks,

Redacted in original production

Redacted in original production

This e-mail and any attachments may contain confidential information and are intended for use solely by the addressee(s). If you are not the intended recipient of this e-mail, please be aware that any dissemination, distribution, copying or other use of the e-mail in whole or in part, is strictly prohibited. If you have received this e-mail in error, please notify the sender and permanently delete the original and all copies of the e-mail, attachments, and any printouts. Thank you.

-----Original Appointment-----

From: Redacted in original production

Sent: Wednesday, February 3, 2021 2:57 PM

To: Redacted in original production

Redacted in original production

Redacted in original production Richard Bamberger; Redacted in original production Redacted in original production

Redacted in original production

Redacted in original production

Subject:

When: Thursday, March 4, 2021 1:00 PM-2:30 PM (UTC-05:00) Eastern Time (US & Canada).

Where: Zoom Conference Call

Importance: High

This Message was Encrypted

Redacted in original production

Here is the information for our weekly calls.

Each week, an updated invite will contain the agenda and materials. Thank you!

Here is the Zoom Redacted in original production call info:

<https://zoom.us/j/> Redacted in original production

Meeting ID: Redacted in original production

One tap mobile

+ Redacted in original production US (New York)

+ Redacted in original production US (New York)

Suggested Agenda for March 4th

- Welcome/New Members
- Updates
- Redacted in original production
- Mobilization, Legislation & Strategy

- Redacted in original production

- National Updates
- Coalition Admin
- Coalition & Other Updates

- Redacted in original production

February 25th Meeting Notes

New Members: Redacted in original production

Updates: Redacted in original production

Redacted in original production

- Redacted in original production

Mobilization, Legislation & Strategy

- Redacted in original production

National Updates

- Redacted in original production

Coalition Admin

- Redacted in original production

Coalition & Other Updates

- Redacted in original production
- [Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

This e-mail and any attachments may contain confidential information and are intended for use solely by the addressee(s). If you are not the intended recipient of this e-mail, please be aware that any dissemination, distribution, copying or other use of the e-mail in whole or in part, is strictly prohibited. If you have received this e-mail in error, please notify the sender and permanently delete the original and all copies of the e-mail, attachments, and any printouts. Thank you.

Message

From: Redacted in original production
Sent: 3/3/2021 5:57:18 PM
To: Redacted in original production

[Redacted]

[/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=f3a586b323e24df69c0564054c251309-Redacted in original production]; Redacted in original production
Redacted in original production Richard Bamberger [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=ef09293cb56b44e58225c2f3c7e08775-rbamberger]; Redacted in original production
Redacted in original production [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=05f7f488b2f14315aaa36be262abd603-Redacted in original production]; Redacted in original production

Redacted in original production

Subject: RE: Redacted in original production
Attachments: Redacted in original production

External Redacted in original production

[Report This Email](#) [FAQ](#) [Protection by INKY](#)

Thanks Redacted in original p the COVID stimulus aid is good news and offers hope that the Legislature Redacted in original production Redacted in original production These can be useful with legislators. In addition, we need to get more stories in local papers across the state. Priority areas include the Redacted in original production in order to keep Legislative Leaders' awareness high in these critical remaining weeks.

On a less than positive note, while a brief delay has been announced in the implementation Redacted in original production Redacted in original production

Redacted in original production

Redacted in original production Given the Governor's distractions, advocacy now must squarely shift to the
Legislature. Redacted in original production

Redacted in original production

Redacted in original production

Redacted in original production

From: Redacted in original production

Sent: Wednesday, March 3, 2021 11:28 AM

To:

Redacted in original production

Redacted in original production

@kivvit.com>;

Redacted in original production

Redacted in original production

Richard Bamberger <

@kivvit.com>;

Redacted in original production

Redacted in original production

@kivvit.com>;

Redacted in original production

Redacted in original production

Redacted in original production

Subject: RE: Redacted in original production

Hi All,

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Please add this to our agenda for further discussion and strategic action.

Thanks,

Redacted in original production

Redacted in original production

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-----Original Appointment-----

From: Redacted in original production

Sent: Wednesday, February 3, 2021 2:57 PM

To: Redacted in original production

Richard Bamberger;

Subject: [Redacted in original production]

When: Thursday, March 4, 2021 1:00 PM-2:30 PM (UTC-05:00) Eastern Time (US & Canada).

Where: Zoom Conference Call

Importance: High

[Redacted] This Message was Encrypted [Redacted]

[Redacted in original production]

Here is the information for our weekly calls.

Each week, an updated invite will contain the agenda and materials. Thank you!

Here is the Zoom [Redacted in original production] call info:

[https://zoom.us/j/\[Redacted\]](https://zoom.us/j/[Redacted])

Meeting ID: [Redacted]

One tap mobile

+ [Redacted] US (New York)

+ [Redacted] US (New York)

Suggested Agenda for March 4th

- Welcome/New Members
- Updates
- [Redacted in original production]
- Mobilization, Legislation & Strategy
- [Redacted in original production]
- National Updates
- Coalition Admin
- Coalition & Other Updates
- [Redacted in original production]
- [Redacted in original production]

February 25th Meeting Notes

[Redacted]

Updates: Redacted in original production

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Mobilization, Legislation & Strategy

- Redacted in original production
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National Updates

- Redacted in original production

Coalition Admin

- Redacted in original production

Coalition & Other Updates

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Message

From: Redacted in original production

Sent: 3/3/2021 6:33:28 PM

To: Redacted in original production

Redacted in original production [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=f3a586b323e24df69c0564054c251309-Redacted in original production; Redacted in original production

Redacted in original production Richard Bamberger [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=ef09293cb56b44e58225c2f3c7e08775-rbamberger]; Redacted in original production

Redacted in original production [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=05f7f488b2f14315aaa36be262abd603-Redacted in original production

Redacted in original production

CC: Redacted in original production

Subject: Re: Redacted in original production

External Redacted in original production

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Thank you for sharing the article.

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There are only two places where this can get fixed now: the governor's office or the legislature. Given the other troubles facing the governor I question if he will have either the will or the focus to save us at this very late date. He is in an existential fight for his political life, and I'm guessing that our issue is not exactly top of mind for him. [Redacted in original production]

To me that means we need to focus on the legislature, [Redacted in original production]

[Redacted in original production]

[Redacted in original production]

[Redacted in original production]

From: [Redacted in original production]

Sent: Wednesday, March 3, 2021 11:28 AM

To: [Redacted in original production]

[Redacted in original production]

[Redacted in original production]@kivvit.com>

[Redacted in original production]

[Redacted in original production]

Richard Bamberger

[Redacted in original production]@kivvit.com>;

[Redacted in original production]

[Redacted in original production]

[Redacted in original production]@kivvit.com>;

[Redacted in original production]

Redacted in original production

Redacted in original production

Subject: RE:

Attention: This email came from an external source. Do not click links or open attachments unless you recognize the source of the email and know the contents are safe.

Hi All,

Given the positive forecasts of increased revenues for NYS Budget, as articulated in this article,

<https://www.thecity.nyc/2021/3/2/22310254/cuomo-sex-harrassment-state-budget-taxes-biden>, how can we amplify this message and leverage it to get

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Please add this to our agenda for further discussion and strategic action.

Thanks,

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Sent: Wednesday, February 3, 2021 2:57 PM

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Richard Bamberger;

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One tap mobile

+ Redacted in original production US (New York)

+ Redacted in original production # US (New York)

Suggested Agenda for March 4th

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- Updates
- Redacted in original production
- Mobilization, Legislation & Strategy

- Redacted in original production

- National Updates
- Coalition Admin
- Coalition & Other Updates

- Redacted in original production
- Redacted in original production

February 25th Meeting Notes

New Members: Redacted in original production

Updates: Redacted in original production

- Redacted in original production

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Mobilization, Legislation & Strategy

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National Updates

- Redacted in original production

Coalition Admin

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Coalition & Other Updates

- Redacted in original production
- [Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

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Message

From: Redacted in original production
Sent: 3/3/2021 5:57:18 PM
To: Redacted in original production

Redacted in original production

[/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=f3a586b323e24df69c0564054c251309-Redacted in original production]; Redacted in original production
Redacted in original production Richard Bamberger [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=ef09293cb56b44e58225c2f3c7e08775-rbamberger]; Redacted in original production
Redacted in original production [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=05f7f488b2f14315aaa36be262abd603-Redacted in original production]; Redacted in original production

Subject: RE: Redacted in original production
Attachments: Redacted in original production

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Thanks Redacted in original production. The COVID stimulus aid is good news and offers hope that the Legislature Redacted in original production. These can be useful with legislators. In addition, we need to get more stories in local papers across the state. Priority areas include the Redacted in original production in order to keep Legislative Leaders' awareness high in these critical remaining weeks.

On a less than positive note, while a brief delay has been announced in the implementation Redacted in original production.
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Redacted in original production

Redacted in original production Given the Governor's distractions, advocacy now must squarely shift to the
Legislature. Redacted in original production

-

Redacted in original production

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Redacted in original production @kivvit.com>; Redacted in original production
Redacted in original production Richard Bamberger @kivvit.com>; Redacted in original production
Redacted in original production @kivvit.com>; Redacted in original production

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Subject: RE: Redacted in original production

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February 25th Meeting Notes

[Redacted in original production]

Updates: Redacted in original production

Redacted in original production

- Redacted in original production

Mobilization, Legislation & Strategy

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