



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

**TO:** Richard Azzopardi  
c/o Alexandra Messiter  
Krieger Kim & Lewin LLP  
500 Fifth Ave  
New York, NY 10110

**YOU ARE HEREBY COMMANDED**, pursuant to Executive Law § 63(8) and New York Civil Practice Law and Rules § 2302(a), to appear and attend before the Special Deputies to the First Deputy Attorney General, on June 18, 2021 at 9:00 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.

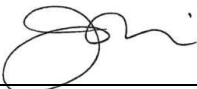
**TAKE NOTICE** that the examination may be recorded by stenographic, videographic and/or audio means.

**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

1

**WITNESS, The Honorable Letitia James**, Attorney General of the State of New York,  
this 19th day of May, 2021.

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

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



STATE OF NEW YORK  
OFFICE OF THE ATTORNEY GENERAL

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

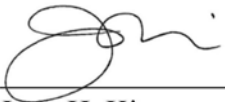
**TO:** Rich Azzopardi  
Senior Advisor to the Governor  
Executive Chamber  
Capitol Building  
Albany, NY 12224

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

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

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

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

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

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

## SCHEDULE

### A. General Definitions and Rules of Construction

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

thereof.

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

## **B. Particular Definitions**

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

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

### **C. Instructions**

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

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

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



responsive information and generating a report or a reasonably usable and exportable electronic file (for example, \*.csv and/or \*.xls formats) for review. If it is not possible to export data in this format, You must make the database available to the undersigned for meaningful inspection and review of the information.

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

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

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

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

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

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

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

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

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

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

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

## ATTACHMENT 1

### **Electronic Document Production Specifications**

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

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

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

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

7. Production File Requirements.

a. ***Metadata Load File***

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

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



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

e. ***Native Files***

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

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

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

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

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

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

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

AFFIDAVIT OF COMPLIANCE WITH SUBPOENA

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

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

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

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

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

\_\_\_\_\_  
Date

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

\* \* \*

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

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

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



STATE OF NEW YORK  
OFFICE OF THE ATTORNEY GENERAL

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

**TO:** Rich Azzopardi  
Senior Advisor to the Governor  
Executive Chamber  
Capitol Building  
Albany, NY 12224


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

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

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



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

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

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

## SCHEDULE

### A. General Definitions and Rules of Construction

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

thereof.

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

## **B. Particular Definitions**

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

3. “New York Attorney General” or “Attorney General” means the New York State Office of the Attorney General, including Letitia James.
4. “Respondent,” “You,” or “Your” means Richard (Rich) Azzopardi, Senior Advisor to the Governor, either in an official or individual capacity.
5. “State” or “New York” means the State of New York.

### **C. Instructions**

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

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

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

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

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

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

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

1. Documents reflecting drafts, copies, or portions of the letter drafted, revised, or otherwise prepared in response to any Complaint by Lindsey Boylan concerning the Governor in or around December 2020, as referenced in the New York Times article titled "How Cuomo's Team Tried to Tarnish One of His Accusers," dated March 16, 2021.
2. If no Document responsive to the above request is currently in Your possession, custody, or control, any Documents sufficient to identify the approximate date(s) on which any copy of the letter referenced above were deleted and by whom.

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

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

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



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

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

A. Relational Databases

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

B. Compression

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

6. Media and Encryption. All documents must be produced on CD, DVD, or hard-drive media. After consultation with the Special Deputy to the First Deputy Attorney General, Documents may also be produced over a secure file transfer protocol (FTP) or a pre-approved cloud-based platform (e.g., Amazon Web Services S3 bucket). All production media must be protected with a strong, randomly generated password containing at least 16 alphanumeric characters and encrypted using Advanced Encryption Standard with 256-bit key length (AES-256). Passwords for electronic documents, files, compressed archives and encrypted media must be provided separately from the media.
  
7. Production File Requirements.
  - A. ***Metadata Load File***
    - Required file format:
      - ASCII or UTF-8
      - Windows formatted CR + LF end of line characters, including full CR + LF on last record in file.
      - .dat file extension
      - Field delimiter: (ASCII decimal character 20)
      - Text Qualifier: þ (ASCII decimal character 254). Date and pure numeric value fields do not require qualifiers.
      - Multiple value field delimiter: ; (ASCII decimal character 59)
    - The first line of the metadata load file must list all included fields. All required fields are listed in Attachment 2.
    - Fields with no values must be represented by empty columns maintaining delimiters and qualifiers.
    - ***Note:*** All documents must have page-level Bates numbering (except documents produced only in native format, which must be assigned a document-level Bates number). The metadata load file must list the beginning and ending Bates numbers (BEGDOC and ENDDOC) for each document. For document families, including but not limited to emails and attachments, compound documents, and uncompressed file containers, the metadata load file must also list the Bates range of the entire document family (ATTACHRANGE), beginning with the first Bates number (BEGDOC) of the “parent” document and ending with the last Bates number (ENDDOC) assigned to the last “child” in the document family.
    - Date and Time metadata must be provided in separate columns.
    - Accepted date formats:
      - mm/dd/yyyy
      - yyyy/mm/dd
      - yyyymmdd
    - Accepted time formats:
      - hh:mm:ss (if not in 24-hour format, you must indicate am/pm)

- hh:mm:ss:mmm

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

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

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

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

D. ***Opticon Load File***

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

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

E. ***Native Files***

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

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

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

---

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

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

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

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



AFFIDAVIT OF COMPLIANCE WITH SUBPOENA

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

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

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

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

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

\_\_\_\_\_  
Date

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

\* \* \*

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

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

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

**STATE OF NEW YORK  
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 2018**

# EMPLOYEE RIGHTS AND RESPONSIBILITIES

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## **INTRODUCTION**

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

All State employees have the right to be free from unlawful discrimination as well as 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. This also applies to interns. This Handbook is intended to provide employees and interns of the State of New York with information on their rights and responsibilities under state and federal law with respect to equal employment opportunity. Emphasis will be placed on New York State's Human Rights Law because the protections it provides are generally greater than those granted under federal law. In addition, this Handbook will cover related state laws and Executive Orders.

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



## 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, familial status, 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. Persons with disabilities, and persons with pregnancy-related conditions, are entitled to reasonable accommodation as provided in section 296.3.

Accommodation of sabbath observance or other religious practices is required by section 296.10. The 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, § 296.3-a and § 296-c, and by the federal Age Discrimination in Employment Act (“ADEA”).<sup>1</sup> Under New York law, age discrimination in employment is prohibited against all persons eighteen years of age or older. Under the ADEA, age discrimination is prohibited only against persons forty years of age or older.

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

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

### **Retirement.**

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

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

### **Exceptions.**

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

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<sup>1</sup> 29 U.S.C. § 621 et seq.

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

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

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

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

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

## EMPLOYEE RIGHTS AND RESPONSIBILITIES

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

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

### **RACE and COLOR**

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

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

There is no objective standard for determining an individual's racial identity. Therefore, 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 are unlawful pursuant to the Human Rights Law § 296.1 and § 296-c, and the federal Civil Rights Act of 1964, Title VII.<sup>11</sup>

### **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.

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

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

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

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

<sup>11</sup> 42 U.S.C. § 2000e et seq.

## EMPLOYEE RIGHTS AND RESPONSIBILITIES

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

### **Statutory protection.**

Discrimination based on creed is unlawful pursuant to the Human Rights Law § 296.1 and § 296-c, and the federal Civil Rights Act of 1964, Title VII.<sup>12</sup>

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

An employee is entitled to time off for religious observance of a sabbath or holy day or days, in accordance with the requirements of his or her religion, provided it does not impose an undue hardship to his or her employer, as explained below.<sup>13</sup> Time off shall also be granted to provide a reasonable amount of time for travel before and after the observance.

The Human Rights Law provides that any such absence from work shall, wherever practicable in the reasonable judgment of the employer, be made up by an equivalent amount of time and work at a mutually convenient time, or shall be charged against any available personal, vacation or other paid leave, or shall be taken as leave without pay.<sup>14</sup> Agencies are not required to permit such absence to be made up at another time, but may agree that the employee may do so.

Leave that would ordinarily be granted for other non-medical personal reasons shall not be denied because the leave will be used for religious observance.<sup>15</sup> Under no circumstances may time off for religious observance be charged as sick leave.<sup>16</sup>

The employee is not entitled to premium wages or benefits for work performed during hours to which such premium wages or benefits would ordinarily be applicable, if the employee is working during such hours only to make up time taken for religious observance.<sup>17</sup>

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

<sup>13</sup> Human Rights Law § 296.10(a).

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

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

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

<sup>17</sup> Human Rights Law § 296.10(a). “Premium wages” include “overtime pay and compensatory time off, and additional remuneration for night, weekend or holiday work, or for standby or irregular duty.” § 296.10(d)(2). “Premium benefit” means “an employment benefit, such as seniority, group life insurance, health insurance, disability insurance, sick leave, annual leave, or an educational or pension benefit that is greater than the employment benefit due to the employee for an equivalent period of work performed during the regular work schedule of the employee.” § 296.10(d)(3).

## EMPLOYEE RIGHTS AND RESPONSIBILITIES

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

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

An employee who, in accordance with 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.<sup>18</sup>

### **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.<sup>19</sup>

Furthermore, in positions that require coverage around the clock or during particular hours, being available even on sabbath or holy days *may* be an essential function of the

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<sup>18</sup> Human Rights Law § 296.10(a).

<sup>19</sup> Human Rights Law § 296.10(d)(1).

## EMPLOYEE RIGHTS AND RESPONSIBILITIES

job. Also, certain uniform appearance standards **may** be essential to some jobs. A requested accommodation will be considered an undue hardship, and therefore not reasonable, if it will result in the inability of an employee to perform an essential function of the job.<sup>20</sup>

### **Exceptions.**

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

## **NATIONAL ORIGIN**

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

National origin is defined as including ancestry, so an individual born in the United States is nonetheless protected against discrimination based on his or her ancestors' nationality.<sup>21</sup> 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 § 296-c, and the federal Civil Rights Act of 1964, Title VII.<sup>22</sup>

### **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 must be reasonable and necessary to the efficient conduct of State business. Any such

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<sup>20</sup> Human Rights Law § 296.10(d)(1).

<sup>21</sup> Human Rights Law § 292.8.

<sup>22</sup> 42 U.S.C. § 2000e et seq.

## EMPLOYEE RIGHTS AND RESPONSIBILITIES

reasonable rule that prohibits or limits the use of a language other than English in the workplace must be clearly communicated to employees before it can be enforced.<sup>23</sup>

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

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

All New York State employees hired after November 6, 1986 must be able to complete a verified federal Form I-9, which establishes the employee's identity and eligibility for employment in the United States. Rescinding an offer of employment or terminating employment based upon lack of current employment authorization is required by federal law and is not unlawful discrimination.<sup>24</sup>

### **Citizenship requirements.**

Employees serving in positions designated as "public offices," as well as peace and police officer positions defined in the New York State Criminal Procedure Law, must be United States citizens.<sup>25</sup>

## **SEXUAL ORIENTATION**

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

The term "sexual orientation" means heterosexuality, homosexuality, bisexuality or asexuality, whether actual or perceived.<sup>26</sup>

### **Statutory protection.**

Discrimination on the basis of sexual orientation is unlawful pursuant to the Human Rights Law § 296.1 and § 296-c. Sexual orientation is not a protected class under

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

<sup>24</sup> US Immigration and Nationality Act § 274A, as modified by the Immigration Reform and Control Act of 1986, Immigration Act of 1990 and Illegal Immigration Reform and Immigrant Responsibility Act of 1996.

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

<sup>26</sup> Human Rights Law § 292.27.

## EMPLOYEE RIGHTS AND RESPONSIBILITIES

federal law. However, sexual orientation discrimination may also be considered sex discrimination under federal law.

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

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

### **Domestic partners.**

Same-sex partners who are not married may also qualify for benefits. The 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.<sup>27</sup>

### **Statutory protection.**

Discrimination on the basis of military status is unlawful pursuant to the Human Rights Law § 296.1 and § 296-c. The federal Uniformed Services Employment and Reemployment Rights Act (USERRA)<sup>28</sup> provides additional protections.

Military leave provisions for State workers (and all public employees) are contained in N.Y. Military Law § 242 and § 243. Under the 2008 amendments to the federal Family

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<sup>27</sup> Human Rights Law § 292.28.

<sup>28</sup> 38 U.S.C. §§ 4301-35.



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and Medical Leave Act (FMLA), employees with a family member who is on active duty or on call to active duty status may be eligible for qualifying exigency leave or military caregiver leave of up to 26 weeks in a 12-month period, based upon the family member's military service.

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

N.Y. Military Law entitles State employees to a leave of absence for "ordered military duty"<sup>29</sup> or "military duty."<sup>30</sup> Both provisions entitle State employees to return to their jobs with the same pay, benefits, and status they would have attained had they remained in their position continuously during the period of military duty. State employees on leave for military duty continue to accrue years of service, increment, and any other rights or privileges. Under both Military Law and the Human Rights Law, those called to military duty, or who may be so called, may not be prejudiced in any way with reference to promotion, transfer, or other term, condition or privilege of employment. Military Law § 243(5) provides: "State employees on leave for military duty shall suffer no loss of time, service, increment, or any other right or privilege, or be prejudiced in any way with reference to promotion, transfer, reinstatement or continuance in office. Employees are entitled to contribute to the retirement system in order to have leave time count toward determining length of service."

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

## **SEX**

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

### **Statutory protection.**

Sex discrimination is unlawful pursuant to the Human Rights Law § 296.1 and § 296-c, and the federal Civil Rights Act of 1964, Title VII.<sup>31</sup>

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

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

<sup>31</sup> 42 U.S.C. § 2000e et seq.

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### **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.

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 below: [Gender Identity](#) and [Disability](#).

### **Sexual harassment.**

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

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

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

### **Exceptions.**

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

## SEXUAL HARASSMENT

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

### **Statutory protection.**

Sexual harassment is prohibited as a form of sex discrimination under the Human Rights Law § 296.1 and § 296-c, and the federal Civil Rights Act of 1964, Title VII.<sup>32</sup>

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

On January 1, 2011, Governor Andrew M. Cuomo issued Executive Order No. 2 reissuing Executive Order No. 19,<sup>33</sup> which established State policy on sexual harassment in the workplace.

### **Sexual harassment.**

Sexual harassment is both offensive and unlawful. Every State employee and intern 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.

Every employer in New York State 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.

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

- Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment, even if the reporting individual is not the intended target of the sexual harassment;
- Such conduct is made either explicitly or implicitly a term or condition of employment; or

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

<sup>33</sup> Issued by Gov. Mario M. Cuomo on May 31, 1983.

## EMPLOYEE RIGHTS AND RESPONSIBILITIES

- Submission to or rejection of such conduct is used as the basis for employment decisions affecting an individual's employment.

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

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

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

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 below: [Harassment](#).

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

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

## EMPLOYEE RIGHTS AND RESPONSIBILITIES

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

Non-employees in the workplace, who are performing work under contract, are explicitly protected from sexual harassment by Human Rights Law § 296-d.

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

## **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 and § 296-c. Reasonable accommodation is required of employers pursuant to Human Rights Law § 296.3(a). New York State law has a very broad definition of disability, and generally protects persons with any disabling condition, including temporary disabilities. Disability discrimination is also unlawful under federal law. However, the scope of disability under the provisions of the Americans with Disability Act (ADA) is not as broad.<sup>34</sup> The Federal Rehabilitation Act of 1973 § 503 and § 504<sup>35</sup> 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

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<sup>34</sup> 42 U.S.C. § 12111 et seq.

<sup>35</sup> 29 U.S.C. § 793 and § 794.

## EMPLOYEE RIGHTS AND RESPONSIBILITIES

normal bodily function or is demonstrable by medically accepted clinical or laboratory diagnostic techniques or

- a record of such an impairment or
- a condition regarded by others as such an impairment.<sup>36</sup>

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

### **Reasonable performance.**

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

### **Essential functions.**

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

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

### **Reasonable Accommodation.<sup>37</sup>**

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

- A modified work schedule;
- Reassignment of the non-essential functions of the job;
- Acquisition or modification of equipment;

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<sup>36</sup> Human Rights Law § 292.21.

<sup>37</sup> With respect to policy and procedures relative to reasonable accommodation generally, employees should consult the publication [Procedures for Implementing Reasonable Accommodation for Applicants and Employees in New York State Agencies](#).

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- Provision of an accessible worksite.

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

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

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

While the employee can request a particular accommodation, the obligation to provide a reasonable accommodation is satisfied where the 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. The Human Rights Law requires that the employee cooperate in providing medical or other information needed to verify the disability, or any additional information that is otherwise necessary for consideration of the accommodation.<sup>38</sup>

Information provided for purposes of reasonable accommodation cannot be used by the agency for another purpose such as a basis for referring an employee for a medical examination to determine fitness for duty pursuant to Civil Service Law section 72(1) 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 regulations<sup>39</sup> of the New York State Division of Human Rights, which are available on the Division's website. These regulations may be used by applicants, employees, and agency personnel in order to better understand the reasonable accommodation process.

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<sup>38</sup> Human Rights Law § 296.3.

<sup>39</sup> 9 N.Y.C.R.R. § 466.11.

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

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

### **Paid Family Leave.**

The New York State Paid Family Leave Law<sup>40</sup> provides for paid leave to bond with a newly born, adopted or fostered child; care for a close relative with a serious health condition; or assist loved ones when a family member is deployed abroad on active military service. The amount of paid leave available increases to a total of 12 weeks by 2021. State employees not represented by a union in bargaining units 06, 18, 46 and 66 are covered by the law. State employees represented by a union may be covered if Paid Family Leave is collectively bargained for.

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

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

The Civil Service Law allows an agency to terminate an employee after one cumulative year of absence for a disability resulting from an occupational injury or disease as defined in the Workers' Compensation Law.<sup>41</sup> 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.<sup>42</sup>

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

New York State employees are subject to criminal, civil, and disciplinary penalties if they distribute, sell, attempt to sell, possess, or purchase controlled substances while at the workplace or while acting in a work-related capacity. Such illegal acts, even if engaged in while off duty, may result in disciplinary action. In those locations where it is permitted, an employee may possess and use a controlled substance that is properly prescribed for the employee by a physician. Employees are also prohibited from on-the-job use of, or impairment from alcohol. If a supervisor has a reasonable suspicion that an employee is unable to perform job duties due to a disability which may be caused by the use of controlled substances or alcohol, that employee may be required

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<sup>40</sup> Workers Compensation Law, art. 9, §§ 200, et seq.

<sup>41</sup> Civil Service Law § 71.

<sup>42</sup> Civil Service Law § 73.



## EMPLOYEE RIGHTS AND RESPONSIBILITIES

to undergo medical testing.<sup>43</sup> 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 <https://nyslearn.ny.gov/>.

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

### **Drug Addiction and Alcoholism under the Human Rights Law and Regulations.**<sup>44</sup>

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

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

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

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

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

Users of guide dogs, hearing dogs, or service dogs that are trained as provided in the Human Rights Law are given protection by the Human Rights Law.<sup>45</sup>

The use of such a dog is not considered a "reasonable accommodation," but a right protected separately under the Human Rights Law, and the dog owner need not specifically request permission to bring the dog into the workplace. This specific

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<sup>43</sup> For agencies that do not have their own drug/alcohol testing procedures, this test must be done pursuant to Civil Service Law § 72.

<sup>44</sup> See *generally* 9 N.Y.C.R.R. § 466.11(h).

<sup>45</sup> Human Rights Law § 296.14.

## EMPLOYEE RIGHTS AND RESPONSIBILITIES

provision has no parallel in the federal ADA, under which the matter would instead be analyzed to determine whether a reasonable accommodation is appropriate.

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

A “guide dog” or “hearing dog” is a dog that is trained to aid a person who is blind, deaf or hard of hearing, is actually used to provide such aid, and was trained by a guide or hearing dog training center or professional guide or hearing dog trainer.<sup>46</sup>

A “service dog” may perform a variety of assistive services for its owner. However, to meet the definition, the dog must be trained by a service dog training center or professional service dog trainer.<sup>47</sup>

Dogs that are considered therapy, companion or other types of assistance dogs, but who have not been professionally trained as stated in the definitions above, are not covered by this provision.<sup>48</sup>

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

Dogs not meeting one of the definitions, or animals other than dogs, may provide assistance or companionship to a person with a disability. However, they are generally **not** permitted into the workplace as a reasonable accommodation, because the workplace and other employees can be adversely impacted by animals that are not professionally trained by guide, hearing or service dog trainers, as provided above. The New York State Civil Service Law provides qualified employees with special leave benefits for the purposes of obtaining service animals or guide dogs and acquiring necessary training.<sup>49</sup>

### **Exceptions.**

The Human Rights Law does not require accommodation of behaviors that do not meet the employer's workplace behavior standards that are consistently applied to all similarly situated employees, even if these behaviors are caused by a disability.<sup>50</sup>

Reasonable accommodation is not required where the disability or the accommodation itself poses a direct threat, which means a significant risk of substantial harm to the

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<sup>46</sup> Human Rights Law §§ 292.31-32.

<sup>47</sup> Human Rights Law § 292.33.

<sup>48</sup> A dog may be licensed as a “service” dog, and nevertheless not meet the definition of service dog for purposes of the Human Rights Law. N.Y. Agriculture & Markets Law § 110, which requires the licensing of dogs, permits municipalities to exempt from licensing fees various categories of dogs, including “service” and “therapy” dogs, but the section provides no definitions of those categories.

<sup>49</sup> Civil Service Law § 6(1).

<sup>50</sup> 9 N.Y.C.R.R. § 466.11(g)(1).

## EMPLOYEE RIGHTS AND RESPONSIBILITIES

health or safety of the employee or others that cannot be eliminated or reduced by reasonable accommodation.<sup>51</sup>

### **PREDISPOSING GENETIC CHARACTERISTICS**

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

Testing for such genetic characteristics is prohibited in most circumstances.

#### **Statutory protection.**

Discrimination on the basis of a genetic characteristic is unlawful pursuant to Human Rights Law § 296.1, § 296.19, and § 296-c. It is also covered by the federal Genetic Information Nondiscrimination Act (GINA).<sup>52</sup>

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

A predisposing genetic characteristic is defined as “any inherited gene or chromosome, or alteration thereof, . . . determined by a genetic test or inferred from information derived from an individual or family member that is scientifically or medically believed to predispose an individual or the offspring of that individual to a disease or disability, or to be associated with a statistically significant increased risk of development of a physical or mental disease or disability.”<sup>53</sup>

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

It is an unlawful discriminatory practice for any employer to directly or indirectly solicit, require, or administer a genetic test to a person, or solicit or require information from which a predisposing genetic characteristic can be inferred as a condition of employment or pre-employment application.<sup>54</sup> It is also unlawful for an employer to buy or otherwise acquire the results or interpretation of an individual's genetic test results or information from which a predisposing genetic characteristic can be inferred or to make

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<sup>51</sup> 9 N.Y.C.R.R. § 466.11(g)(2).

<sup>52</sup> As with Title VII, the ADA and the ADEA, the Genetic Information Nondiscrimination Act is enforced by the federal Equal Employment Opportunity Commission. When codified, GINA was distributed throughout various sections of Titles 29 and 42 of the United States Code. For more details on GINA, see <http://www.eeoc.gov/laws/types/genetic.cfm>.

<sup>53</sup> Human Rights Law § 292.21-a.

<sup>54</sup> Human Rights Law § 296.19(a)(1).

## EMPLOYEE RIGHTS AND RESPONSIBILITIES

an agreement with an individual to take a genetic test or provide genetic test results or such information.<sup>55</sup>

An employee may give written consent to have a genetic test performed, for purposes of a worker's compensation claim, pursuant to civil litigation, or to determine the employee's susceptibility to potentially carcinogenic, toxic, or otherwise hazardous chemicals or substances found in the workplace environment. The employer may not take any adverse action against an employee on the basis of such voluntary test.<sup>56</sup>

### **Exceptions.**

An employer may require a specified genetic test as a condition of employment where such a test is shown to be directly related to the occupational environment, such that the employee or applicant with a particular genetic anomaly might be at an increased risk of disease as a result of working in that environment.<sup>57</sup> However, the employer may not take adverse action against the employee as a result of such testing.

## **FAMILIAL STATUS**

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

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

### **Statutory protection.**

Discrimination on the basis of familial status is unlawful pursuant to Human Rights Law § 296.1. Familial status is not a protected class under federal law.

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

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

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<sup>55</sup> Human Rights Law § 296.19(a)(2).

<sup>56</sup> Human Rights Law § 296.19(c) and (d).

<sup>57</sup> Human Rights Law § 296.19(b).

## EMPLOYEE RIGHTS AND RESPONSIBILITIES

### **Nepotism.**

Nepotism means hiring, granting employment benefits, or giving other favoritism based on the identity of a person's family member. Anti-nepotism rules do not implicate familial status discrimination, because anti-nepotism rules involve the **identity** of the employees as relatives, not their **status** as parent, child, or spouse. The Public Officers Law provides that a State employee may not control or influence decisions to hire, fire, supervise or discipline a family member.<sup>58</sup> Moreover, other acts of nepotism not specifically governed by this provision may violate more general conflict of interest provisions in the New York ethics statutes.

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

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

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

### **No requirement of reasonable accommodation.**

The Human Rights Law explicitly states that the familial status provisions do not create any right to reasonable accommodation on that basis.<sup>59</sup> Therefore, the employer is not required to accommodate the needs of the child or children and is not required to grant time off for the parent to attend school meetings, concerts, sporting events, etc., as an accommodation. However, the employer must grant such time off to the same extent that time off is granted to employees for other personal reasons.

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

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<sup>58</sup> Anti-nepotism rules for all State government workplaces are found in N.Y. Public Officers Law § 73.14.

<sup>59</sup> Human Rights Law §296.3

## EMPLOYEE RIGHTS AND RESPONSIBILITIES

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

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

## **MARITAL STATUS**

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

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

### **Statutory protection.**

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

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

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

### **Nepotism.**

Nepotism means hiring, granting employment benefits, or other favoritism based on the identity of a person's spouse or other relative. The Public Officers Law provides that a State employee may not control or influence decisions to hire, fire, supervise or discipline a spouse or other relative.<sup>60</sup> Moreover, other acts of nepotism not specifically governed by this provision may violate more general conflict of interest provisions in the New York ethics statutes. Such anti-nepotism rules do not implicate marital status discrimination.

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<sup>60</sup> Anti-nepotism rules for all State government workplaces are found in N.Y. Public Officers Law § 73.14.

## EMPLOYEE RIGHTS AND RESPONSIBILITIES

### **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 and § 296-c. There is no similar federal protection.

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

On January 1, 2011, Governor Andrew M. Cuomo issued Executive Order No. 2, reissuing Executive Order No. 19,<sup>61</sup> which requires adoption of domestic violence and the workplace policies by all executive branch State agencies.

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

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

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

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<sup>61</sup> Issued by Gov. Eliot L. Spitzer on October 22, 2007.

## EMPLOYEE RIGHTS AND RESPONSIBILITIES

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



## EMPLOYEE RIGHTS AND RESPONSIBILITIES

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.<sup>62</sup>

### **Unemployment insurance benefits.**

If a victim must leave a job because of domestic violence, he or she is not necessarily barred from receiving unemployment insurance benefits. Circumstances related to domestic violence may be “good cause” for voluntarily quitting a job. Also, job performance problems related to domestic violence (such as absenteeism or tardiness) will not necessarily bar benefits.<sup>63</sup>

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

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

## **PREGNANCY, CHILDBIRTH AND PARENTAL LEAVE**

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

### **Statutory protection.**

Discrimination based on sex and familial status is unlawful pursuant to Human Rights Law § 296.1 and § 296-c. Sex, but not familial status, is a protected class under federal law. Reasonable accommodation of pregnancy-related conditions is required by the Human Rights Law.<sup>64</sup> There is no similar requirement under federal law, unless the pregnancy-related condition meets the definition of “disability” under federal law. Also,

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<sup>62</sup> N.Y. Penal Law § 215.14.

<sup>63</sup> N.Y. Labor Law § 593.

<sup>64</sup> Human Rights Law § 296.3(a).

## EMPLOYEE RIGHTS AND RESPONSIBILITIES

the federal Family Medical Leave Act and the New York State Paid Family Leave Act (where these are applicable) may entitle an employee leave. (See above: [Family Medical Leave Act and Paid Family Leave.](#))

### **Pregnancy discrimination.**

No decision regarding hiring, firing or the terms, condition and privileges of employment may be based on the fact that an applicant or employee is pregnant or has recently given birth. A pregnant individual may not be compelled to take a leave of absence unless pregnancy prevents that individual from performing the duties of the job in a reasonable manner.<sup>65</sup> Disability discrimination may also be implicated where discrimination is based on limitations or perceived limitations due to pregnancy.

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

Any medical condition related to pregnancy or childbirth that does prevent the performance of job duties entitles the individual to reasonable accommodation, including time off consistent with the medical leave policies applicable to any disability. The mere fact of being pregnant does not trigger the requirement of accommodation. But, any condition that “inhibits the exercise of a normal bodily function or is demonstrable by medically accepted clinical or laboratory diagnostic techniques”<sup>66</sup> must be accommodated, when necessary, to allow the employee to perform the essential functions of the job.

An agency may require a doctor’s note to substantiate the request but must maintain the confidentiality of an employee’s medical information. The Human Rights Law requires that the employee cooperate in providing medical or other information needed to verify the pregnancy-related condition, or that is otherwise necessary for consideration of the accommodation.<sup>67</sup> (See above: [Disability.](#))

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

### **Parental leave.**

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

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<sup>65</sup> Human Rights Law § 296.1(g) and § 296-c(2)(e).

<sup>66</sup> Human Rights Law § 292.21-f.

<sup>67</sup> Human Rights Law § 296.3.

## EMPLOYEE RIGHTS AND RESPONSIBILITIES

In general, the State as an employer cannot take adverse action against employees who take qualifying medical leave for the birth or adoption of a child, for their own serious health condition, or to care for a family member with a serious health condition which qualifies under the federal Family and Medical Leave Act.<sup>68</sup> The Act entitles eligible employees to take up to a total of 12 weeks of unpaid leave during a calendar year.

### **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 below: [Previous Conviction](#).)

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

#### **Pending arrest or 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

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<sup>68</sup> 29 U.S.C. § 2601 et seq.

## EMPLOYEE RIGHTS AND RESPONSIBILITIES

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 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 or § 160.59.

### **Sealed records.**

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

### **Exceptions.**

The Human Rights Law explicitly states that arrest inquiries, requests for information, or adverse actions may be lawful where such actions are “specifically required or permitted by statute.”<sup>69</sup>

These provisions do not apply to an application for employment as a police officer or peace officer.<sup>70</sup>

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

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<sup>69</sup> Human Rights Law § 296.16; see e.g. Civil Service Law § 50(4).

<sup>70</sup> Police and peace officer as defined in Criminal Procedure Law §§ 1.20 and 2.10, respectively.

## EMPLOYEE RIGHTS AND RESPONSIBILITIES

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

### PREVIOUS CONVICTION RECORDS

It is unlawful to deny any license or employment, to refuse to hire, or terminate, or take an adverse employment action against an applicant or employee, by reason of 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.<sup>71</sup>

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

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

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<sup>71</sup> N.Y. Correction Law § 752.

## EMPLOYEE RIGHTS AND RESPONSIBILITIES

- (d) The time which has elapsed since the occurrence of the criminal offense or offenses.
- (e) The age of the person at the time of occurrence of the criminal offense or offenses.
- (f) The seriousness of the offense or offenses.
- (g) Any information produced by the person, or produced on his behalf, in regard to his rehabilitation and good conduct.
- (h) The legitimate interest of the public agency or private employer in protecting property, and the safety and welfare of specific individuals or the general public.<sup>72</sup>

Also, in making the determination, the employer must give consideration to a certificate of relief from disabilities or a certificate of good conduct issued to the individual, which creates a presumption of rehabilitation in regard to any offense specified in the certificate.<sup>73</sup>

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

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

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

### **Inquiries and misrepresentation.**

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

If the employer learns at any time that that an applicant or employee has made a misrepresentation with regard to any previous conviction, it may be grounds for denial or termination of employment.<sup>74</sup>

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

The arrest provisions<sup>75</sup> of the Human Rights Law interact with the conviction provisions. Although it is **lawful to ask** about previous convictions, it is **unlawful to ask** about

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<sup>72</sup> N.Y. Correction Law § 753.1.

<sup>73</sup> N.Y. Correction Law § 753.2.

<sup>74</sup> N.Y. Correction Law § 751; see also Civil Service Law section 50(4).

<sup>75</sup> Human Rights Law § 296.16.

## EMPLOYEE RIGHTS AND RESPONSIBILITIES

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 above: [Prior Arrest.](#))

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

A State employee or an applicant for State employment cannot file a complaint with the Division of Human Rights regarding previous conviction. An individual can pursue enforcement under the Human Rights Law only by filing an Article 78 proceeding in State Supreme Court.<sup>76</sup> However, State employees may file complaints with respect to the Prior Arrest provisions of the Human Rights Law with the Division of Human Rights. (See above: [Prior Arrest.](#))

### **Exceptions.**

It is not unlawful to 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."<sup>77</sup>

## **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 an 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.

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<sup>76</sup> N.Y. Correction Law § 755.1.

<sup>77</sup> N.Y. Correction Law § 750.5.

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

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

### **Statutory protection.**

Gender identity is protected under the Human Rights Law as gender identity may form the basis of sex and disability discrimination claims. These protections are explained in regulations promulgated by the Division of Human Rights.<sup>78</sup> Gender identity discrimination may also be considered sex discrimination under federal law.

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

On January 1, 2011, Governor Andrew M. Cuomo issued Executive Order No. 2, reissuing Executive Order No. 33,<sup>79</sup> which prohibits discrimination in employment by executive branch agencies on the basis of gender identity.

### **What protection against discrimination is provided by Executive Order?**

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 below: [Harassment](#) and [Retaliation](#).) 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.

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

The term "sex" when used in the Human Rights Law includes gender identity and the status of being transgender and either basis is sex discrimination. Harassment on either basis qualifies as sexual harassment. (See above: [Sex Stereotyping](#).)

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<sup>78</sup> 9 N.Y.C.R.R. § 466.13

<sup>79</sup> Issued by Gov. David A Paterson on December 16, 2009.



## EMPLOYEE RIGHTS AND RESPONSIBILITIES

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

## 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 above: [Sexual Harassment](#).) State employees and interns 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 or intern 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 or internship.

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

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

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

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

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

Non-employees in the workplace, who are performing work under contract, are explicitly protected from sexual harassment by Human Rights Law § 296-d.

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

### **Harassment must be reported.**

The employing agency is not responsible for harassment by co-workers or non-employees, 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 or intern has a duty to report it to management, even if the employee or intern 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.

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

The employer 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 class, unless based upon a bona fide occupational qualification.<sup>80</sup>

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

Information gathered in furtherance of an affirmative action plan may be lawful, so long as the affirmative action is pursued in a lawful manner (which is beyond the scope of

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<sup>80</sup> Human Rights Law § 296.1(d) and § 296-c(2)(c).

## EMPLOYEE RIGHTS AND RESPONSIBILITIES

this booklet). Information on protected class 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.<sup>81</sup> 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.

### **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 occurs when an adverse action or actions is 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.

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<sup>81</sup> Human Rights Law § 296.7; see also Civil Service Law § 75-B, which gives protection to "whistleblowers."

## EMPLOYEE RIGHTS AND RESPONSIBILITIES

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

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

### **Interns**

Paid interns are employees, and all provisions relating to employees explained in this document apply to paid interns. Unpaid interns are explicitly protected by Human Rights Law § 296-c, and are entitled to the same protections as employees, in most areas, wherever § 296-c is referenced in the sections above.

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

### **Political Activities**

The Civil Service Law provides that no appointment or selection or removal from employment shall relate to the political opinions or affiliations of any person. No person in the civil service of the State is under any obligation to contribute to any political fund or render any political service and no person shall be removed or otherwise prejudiced for refusing to do so. No person in the civil service shall discharge or promote or reduce or in any manner change the rank or compensation of another for failing to contribute money or any other valuable thing for any political purpose. No person in the civil service shall use his or her official authority or influence to coerce the political action of any person or body or to interfere with any election.<sup>82</sup> This law is enforced by the New York State Joint Commission on Public Ethics. Complaints regarding this provision should not be filed with the Division of Human Rights.

### **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

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<sup>82</sup> Civil Service Law § 107.

## EMPLOYEE RIGHTS AND RESPONSIBILITIES

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](http://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 protected classes 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 Equal Opportunity Officer (also referred to as Affirmative Action Officer) assigned to the agency.

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. These policies and procedures, and discrimination complaint form, should be available on your agency's intranet site or employee handbook. If you cannot locate them, please contact your supervisor or manager, the agency's human resources department, or the EEO officer assigned to the agency and they will assist you in obtaining this information.

### **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

## EMPLOYEE RIGHTS AND RESPONSIBILITIES

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

### NOTE

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

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

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

This Handbook has been written so as to not conflict with any collective bargaining agreement that the State has entered into with any union representing its unionized employees. If there is any conflict between this Handbook and any collective bargaining

## EMPLOYEE RIGHTS AND RESPONSIBILITIES

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 11:05 AM

**Subject:** [Chat #4628]

**From:** Rich Bamberger

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

Caruso feels we need to get a [Redacted], [Redacted], and [Redacted] out and any paperwork out He says they are debating at AP what to do but this will steamroll so may have to do something

----METADATA INFORMATION----

**Device Owner:**

[Redacted] Bamberger, Rich

**ICCID:**

[Redacted]





**Date:** Sunday, December 13 2020 11:24 AM

**Subject:** [Chat #4631]

**From:** Rich Bamberger

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

---

Bernadette is talking to [Redacted] now about what was told her by former colleagues Campbell says he doesn't write off of unverified tweets He called Lindsey and she won't talk

----METADATA INFORMATION----

**Device Owner:**

[Redacted] Bamberger, Rich

**ICCID:**

[Redacted]

**Date:** Sunday, December 13 2020 01:36 PM

**Subject:** [Chat #4646]

**From:** Rich Bamberger

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

---

Caruso says he has to go and will update

----METADATA INFORMATION----

**Device Owner:**

[Redacted] Bamberger, Rich

**ICCID:**

[Redacted]



**Date:** Sunday, December 13 2020 01:43 PM

**Subject:** [Chat #4647]

**From:** Melissa DeRosa [REDACTED]

**To:** Rich Bamberger [REDACTED] [Dani Lever]; [REDACTED] [Josh Vlasto]; [REDACTED] [Rich Azzopardi];

---

Hold

----METADATA INFORMATION----

**Device Owner:**

[REDACTED] Bamberger, Rich

**ICCID:**

[REDACTED]

**Date:** Sunday, December 13 2020 01:43 PM

**Subject:** [Chat #4648]

**From:** Melissa DeRosa [REDACTED]

**To:** Rich Bamberger [REDACTED] [Dani Lever]; [REDACTED] [Josh Vlasto]; [REDACTED] [Rich Azzopardi];

---

We are getting it to him now

----METADATA INFORMATION-----

**Device Owner:**

[REDACTED] Bamberger, Rich

**ICCID:**

[REDACTED]

**Date:** Sunday, December 13 2020 01:47 PM

**Subject:** [Chat #4649]

**From:** Josh Vlasto [REDACTED]

**To:** Rich Bamberger [REDACTED] [Dani Lever]; [REDACTED] [Melissa DeRosa]; [REDACTED]  
[Rich Azzopardi];

---

Anything from the DN?

----METADATA INFORMATION----

**Device Owner:**

[REDACTED] Bamberger, Rich

**ICCID:**

[REDACTED]

**Date:** Sunday, December 13 2020 01:49 PM

**Subject:** [Chat #4650]

**From:** Rich Bamberger

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

---

I didn't call Denis Do we need me to?

----METADATA INFORMATION----

**Device Owner:**

[Redacted] Bamberger, Rich

**ICCID:**

[Redacted]

**Date:** Sunday, December 13 2020 01:50 PM

**Subject:** [Chat #4651]

**From:** Melissa DeRosa [REDACTED]

**To:** Rich Bamberger [REDACTED] [Dani Lever]; [REDACTED] [Josh Vlasto]; [REDACTED] [Rich Azzopardi];

---

Yes

----METADATA INFORMATION-----

**Device Owner:**

[REDACTED] Bamberger, Rich

**ICCID:**

[REDACTED]

**Date:** Sunday, December 13 2020 01:51 PM

**Subject:** [Chat #4652]

**From:** Rich Bamberger

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

---

Got vm Texted him

----METADATA INFORMATION----

**Device Owner:**

[Redacted] Bamberger, Rich

**ICCID:**

[Redacted]



**Date:** Sunday, December 13 2020 02:30 PM

**Subject:** [Chat #4653]

**From:** Rich Azzopardi [REDACTED]

**To:** Rich Bamberger [REDACTED] [Dani Lever]; [REDACTED] [Josh Vlasto]; [REDACTED]  
[Melissa DeRosa]; [REDACTED]

---

Ap all set. tying up the times now

----METADATA INFORMATION----

**Device Owner:**

[REDACTED] Bamberger, Rich

**ICCID:**

[REDACTED]

To: 'Caruso, David [REDACTED]@ap.org]

From: Richard Azzopardi[/O=NYEC/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=RAZZOPARTI]

Sent: Sun 12/13/2020 2:29:13 PM Eastern Standard Time

Subject: paperwork and statement

Attachment: 202012131419.pdf

---

From Press Secretary Caitlin Girouard: "There is simply no truth to these claims."

EXHIBIT

6

Memorandum

To: Alphonso David, Counsel to the Governor

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

Re: Confidential Personnel Matter

Date: September 20, 2018

---

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





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

**MEMORANDUM TO FILE**

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

---

1. Purpose

[REDACTED] 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



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

3. Ms. Boylan's Resignation

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

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

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

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

/s

Julia Pinover Kupiec  
Executive Chamber Ethics Officer

[REDACTED]

---

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

Privileged and confidential  
Attorney client communication  
Attorney work product





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

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

To: Vielkind, Jimmy [REDACTED]@wsj.com]

From: Richard Azzopardi [/O=NYEC/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=RAZZOPARTI]

Sent: Sun 12/13/2020 5:56:51 PM Eastern Standard Time

Subject: paperwork

Attachment: 202012131419.pdf

---



Memorandum

To: Alphonso David, Counsel to the Governor

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

Re: Confidential Personnel Matter

Date: September 20, 2018

---

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





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

**MEMORANDUM TO FILE**

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

1. Purpose

[REDACTED]

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

[REDACTED]

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



3. Ms. Boylan's Resignation

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

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

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

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

/s

Julia Pinover Kupiec  
Executive Chamber Ethics Officer

[REDACTED]

---

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

Privileged and confidential  
Attorney client communication  
Attorney work product





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

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

To: McKinley, Ed [REDACTED]@timesunion.com]

From: Richard Azzopardi [/O=NYEC/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=RAZZOPARTI]

Sent: Sun 12/13/2020 4:51:10 PM Eastern Standard Time

Subject: paperwork

Attachment: 202012131419.pdf

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EXHIBIT

8

Memorandum

To: Alphonso David, Counsel to the Governor

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

Re: Confidential Personnel Matter

Date: September 20, 2018

---

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





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

**MEMORANDUM TO FILE**

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

1. Purpose

[REDACTED]

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

[REDACTED]

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



3. Ms. Boylan's Resignation

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

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

/s

Julia Pinover Kupiec  
Executive Chamber Ethics Officer

[REDACTED]

---

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

Privileged and confidential  
Attorney client communication  
Attorney work product





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

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

To: Bernadette Hogan [REDACTED]@nypost.com]

From: Richard Azzopardi[/O=NYEC/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=RAZZOPARTI]

Sent: Sun 12/13/2020 4:05:08 PM Eastern Standard Time

Subject: paperwork and statement

Attachment: 202012131419.pdf

---

From Press Secretary Caitlin Girouard: "There is simply no truth to these claims."

EXHIBIT

9

Memorandum

To: Alphonso David, Counsel to the Governor

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

Re: Confidential Personnel Matter

Date: September 20, 2018

---

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





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

**MEMORANDUM TO FILE**

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

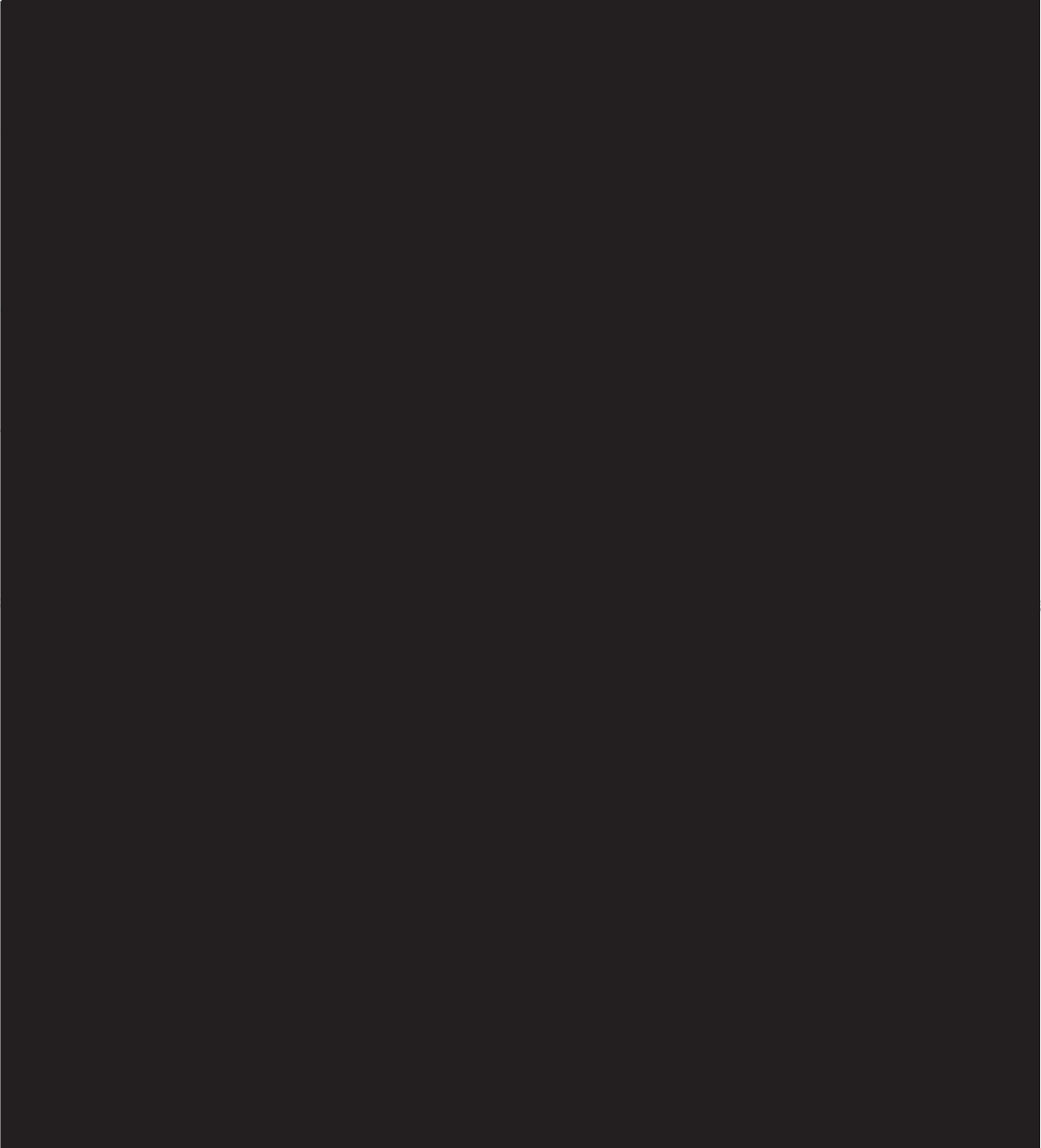
1. **Purpose**

[REDACTED]

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

[REDACTED]

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



3. Ms. Boylan's Resignation

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

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

/s

Julia Pinover Kupiec  
Executive Chamber Ethics Officer

[REDACTED]

---

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

Privileged and confidential  
Attorney client communication  
Attorney work product





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

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

To: 'Dana Rubinstein [REDACTED]@nytimes.com]

From: Richard Azzopardi [/O=NYEC/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=RAZZOPARTI]

Sent: Sun 12/13/2020 2:32:08 PM Eastern Standard Time

Subject: paperwork and statement

Attachment: 202012131419.pdf

---

From Press Secretary Caitlin Girouard: "There is simply no truth to these claims."

EXHIBIT  
10

Memorandum

To: Alphonso David, Counsel to the Governor

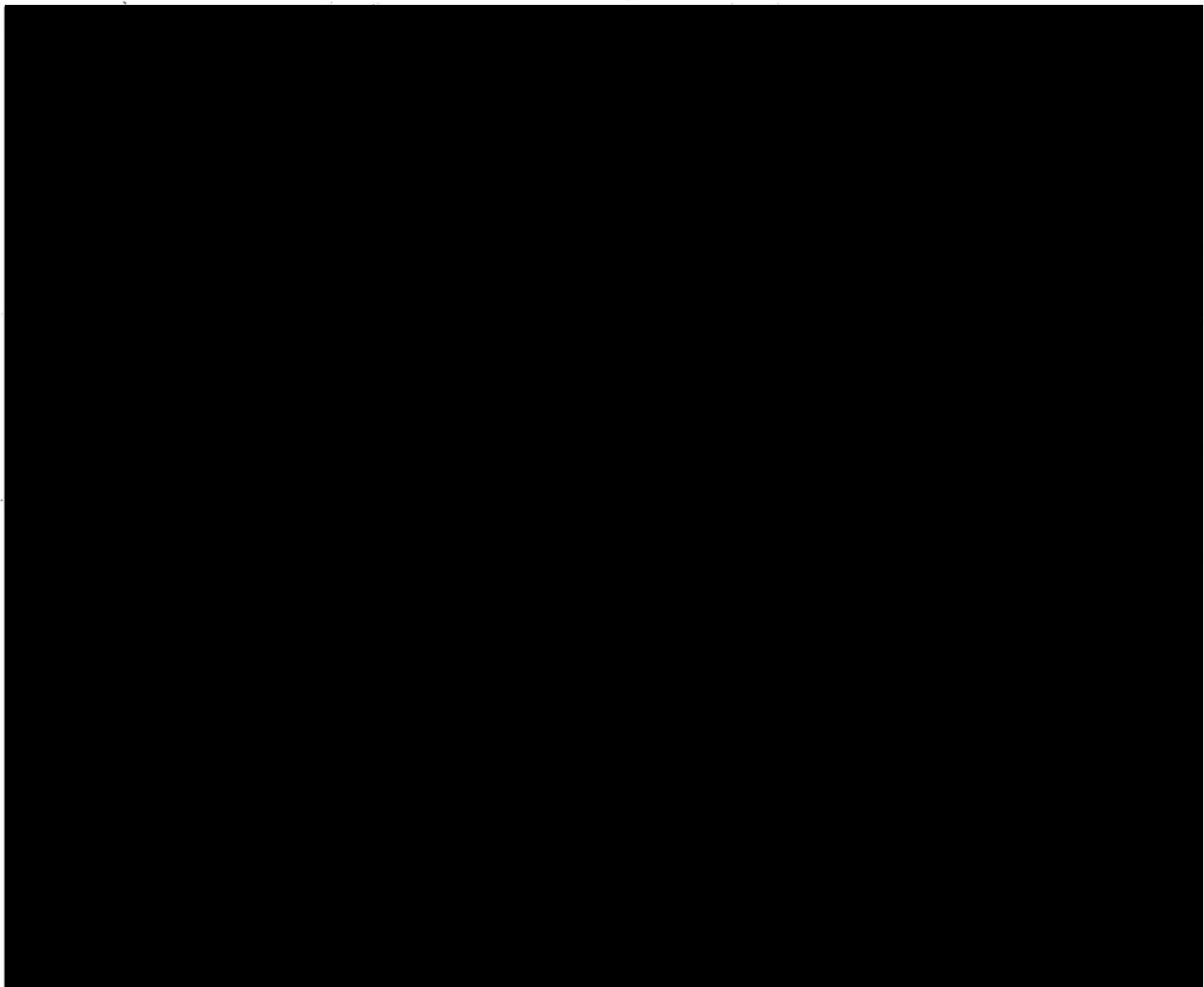
From: Camille Joseph Varlack, Deputy Director of State Operations,  
Chief Risk Officer and Special Counsel

Re: Confidential Personnel Matter

Date: September 20, 2018

---

On September 20, 2018, I spoke with *ESD Official 1* and *ESD Official 2* and *ESD Official 3* of Empire State Development (ESD), respectively. Below please find a summary of my conversation.





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

**MEMORANDUM TO FILE**

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

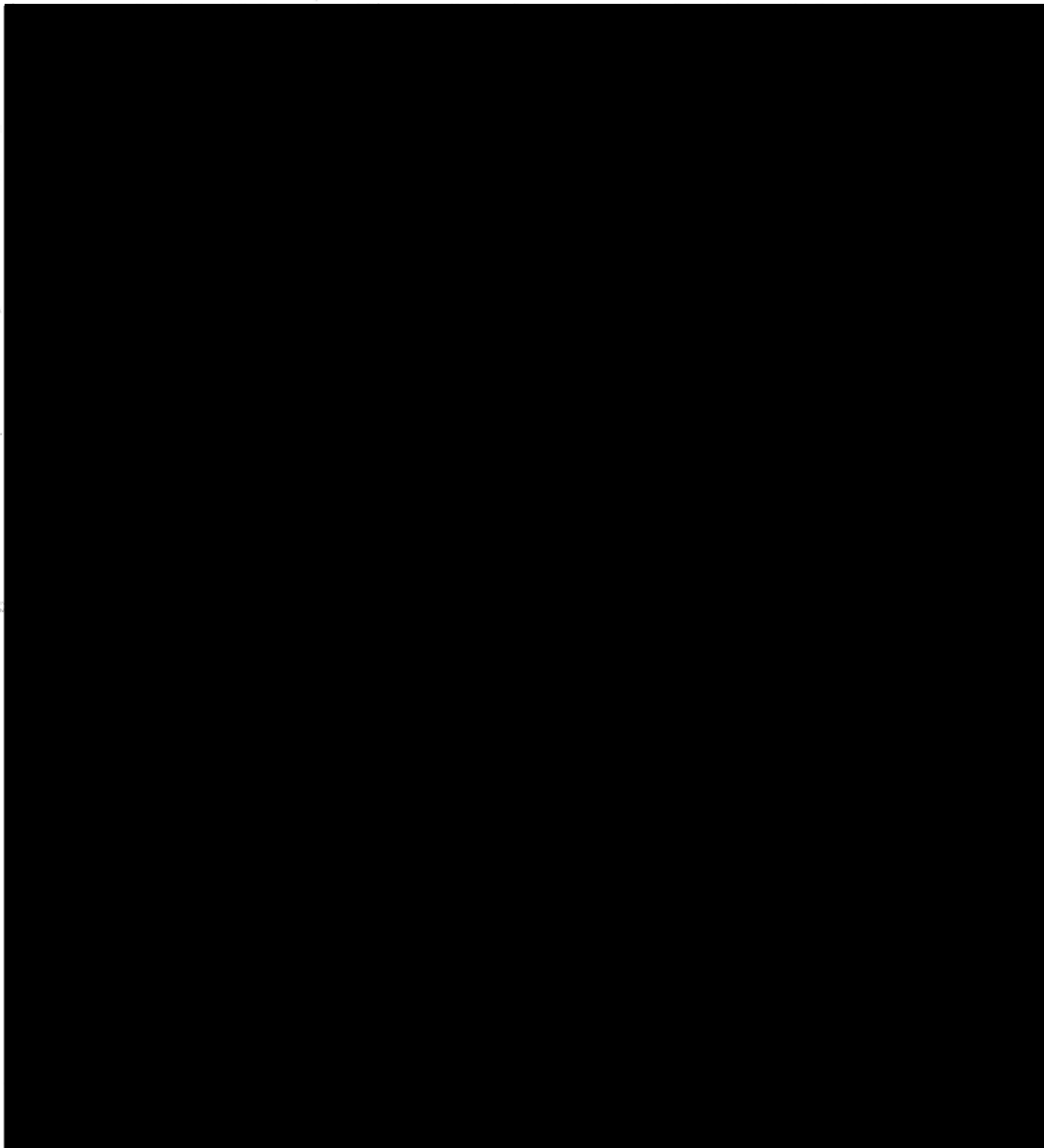
**1. Purpose**

[REDACTED]

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

[REDACTED]

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



3. Ms. Boylan's Resignation

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

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

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

/s

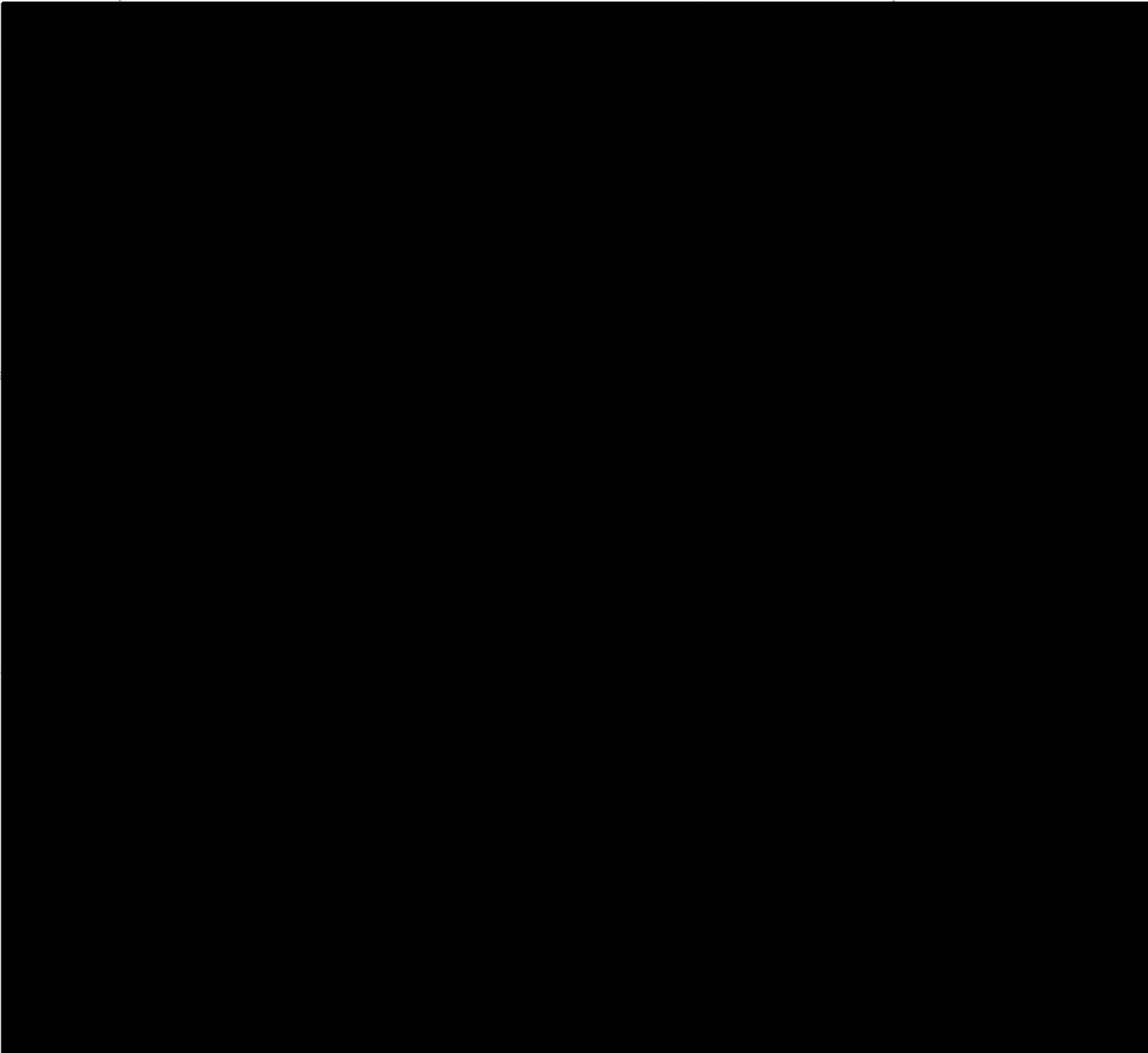
Julia Pinover Kupiec  
Executive Chamber Ethics Officer

[REDACTED]

---

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

Privileged and confidential  
Attorney client communication  
Attorney work product





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

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

**Date:** Sunday, December 13 2020 11:15 AM

**Subject:** [Chat #11585]

**From:** Dani Lever <[REDACTED]>

**To:** [REDACTED] [Joshua Vlasto (owner)]; [REDACTED] [Rich Bamberger]; [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] Josh Vlasto

**ICCID:**

[REDACTED]

**EXHIBIT**

**11**

**Date:** Sunday, December 13 2020 11:24 AM

**Subject:** [Chat #11586]

**From:** Rich Bamberger <[REDACTED]>

**To:** [REDACTED] [Joshua Vlasto (owner)]; [REDACTED] [Dani Lever]; [REDACTED] [Melissa DeRosa];  
[REDACTED] [Rich Azzopardi];

---

Bernadette is talking to [REDACTED] now about what was told her by former colleagues Campbell says he doesn't write off of unverified tweets He called Lindsey and she won't talk

----METADATA INFORMATION----

**Device Owner:**

[REDACTED] Josh Vlasto

**ICCID:**

[REDACTED]

**Date:** Sunday, December 13 2020 11:33 AM

**Subject:** [Chat #11587]

**From:** Rich Bamberger <[REDACTED]>

**To:** [REDACTED] [Joshua Vlasto (owner)]; [REDACTED] [Dani Lever]; [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] Josh Vlasto

**ICCID:**

[REDACTED]

**Date:** Sunday, December 13 2020 12:03 PM

**Subject:** [Chat #3683]

**From:** Rich Azzopardi [REDACTED]

**To:** Rich Bamberger [REDACTED]; [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]



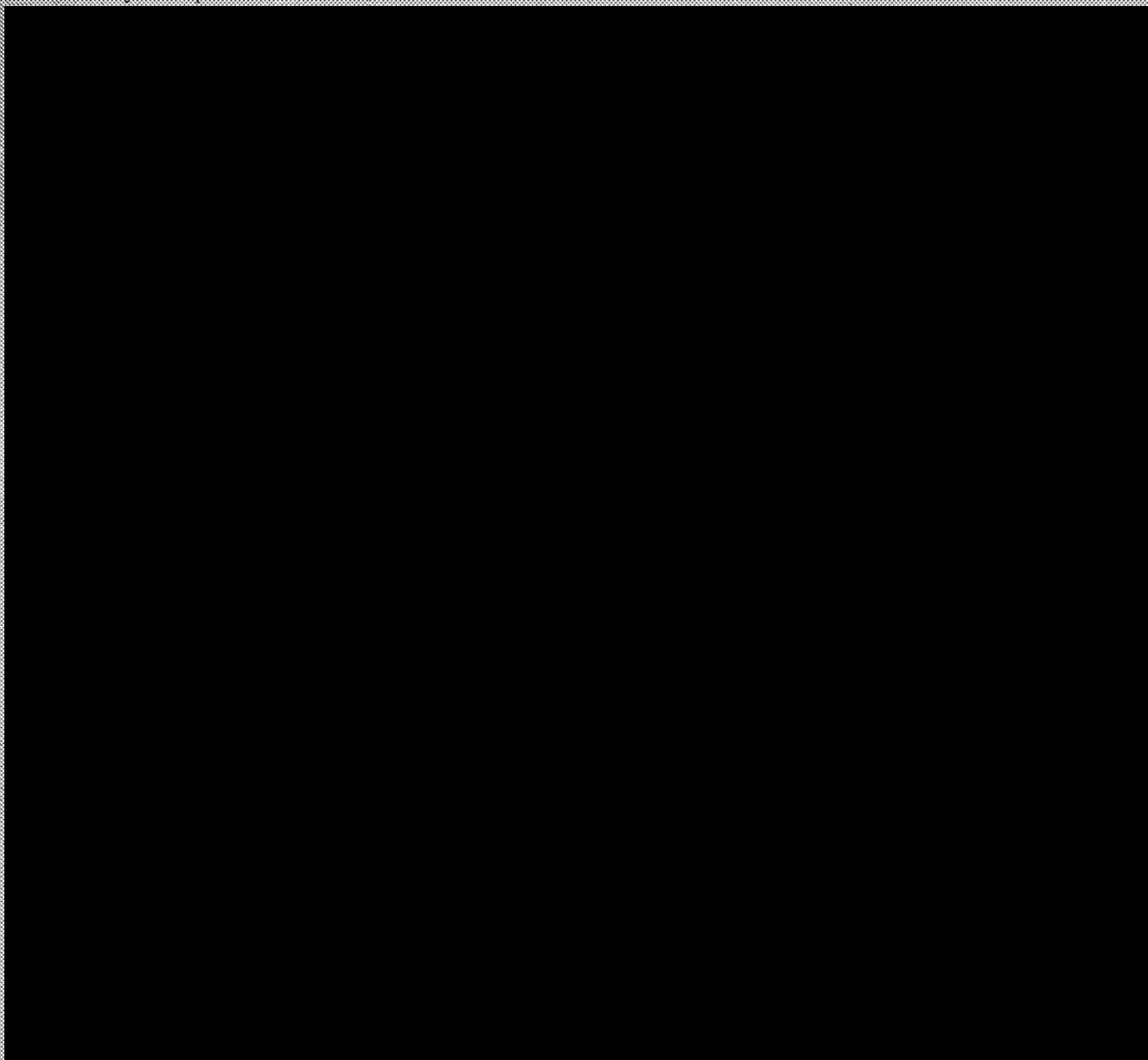


[REDACTED] Further, she has notified practically all state employees and many external stakeholders of her voluntary resignation, which was accepted. We will need to think about whether that issue can be effectively managed. I advised her I would get back to her with a formal response to her request.

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]

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

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.

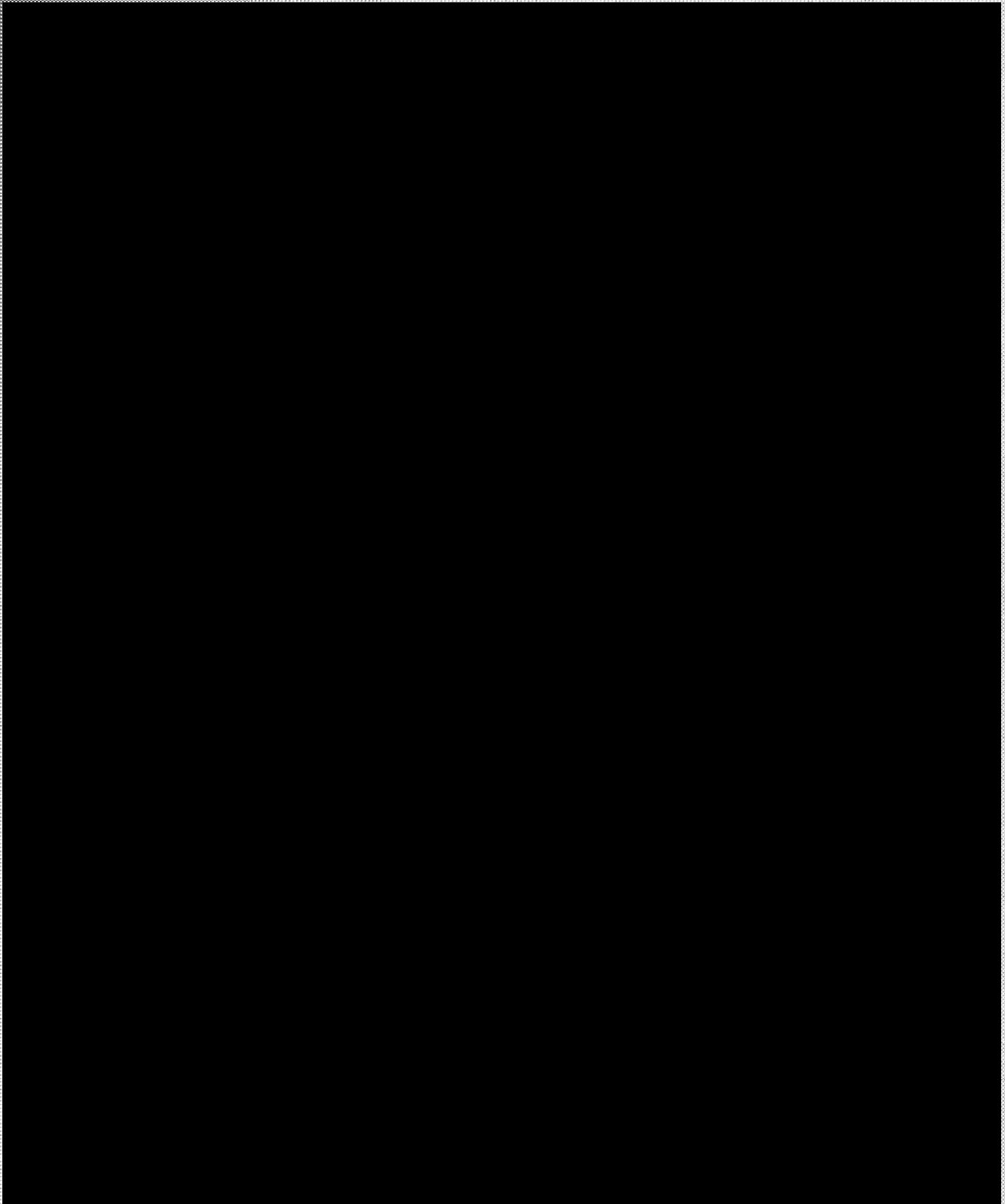
I wrote this memorandum on September 26, 2018 based on contemporaneous notes taken during my personal attendance at the above described meeting on September 26, 2018.

/s/

Julia Pinover Kupiec

Executive Chamber Ethics Officer

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



CONFIDENTIAL

Memorandum

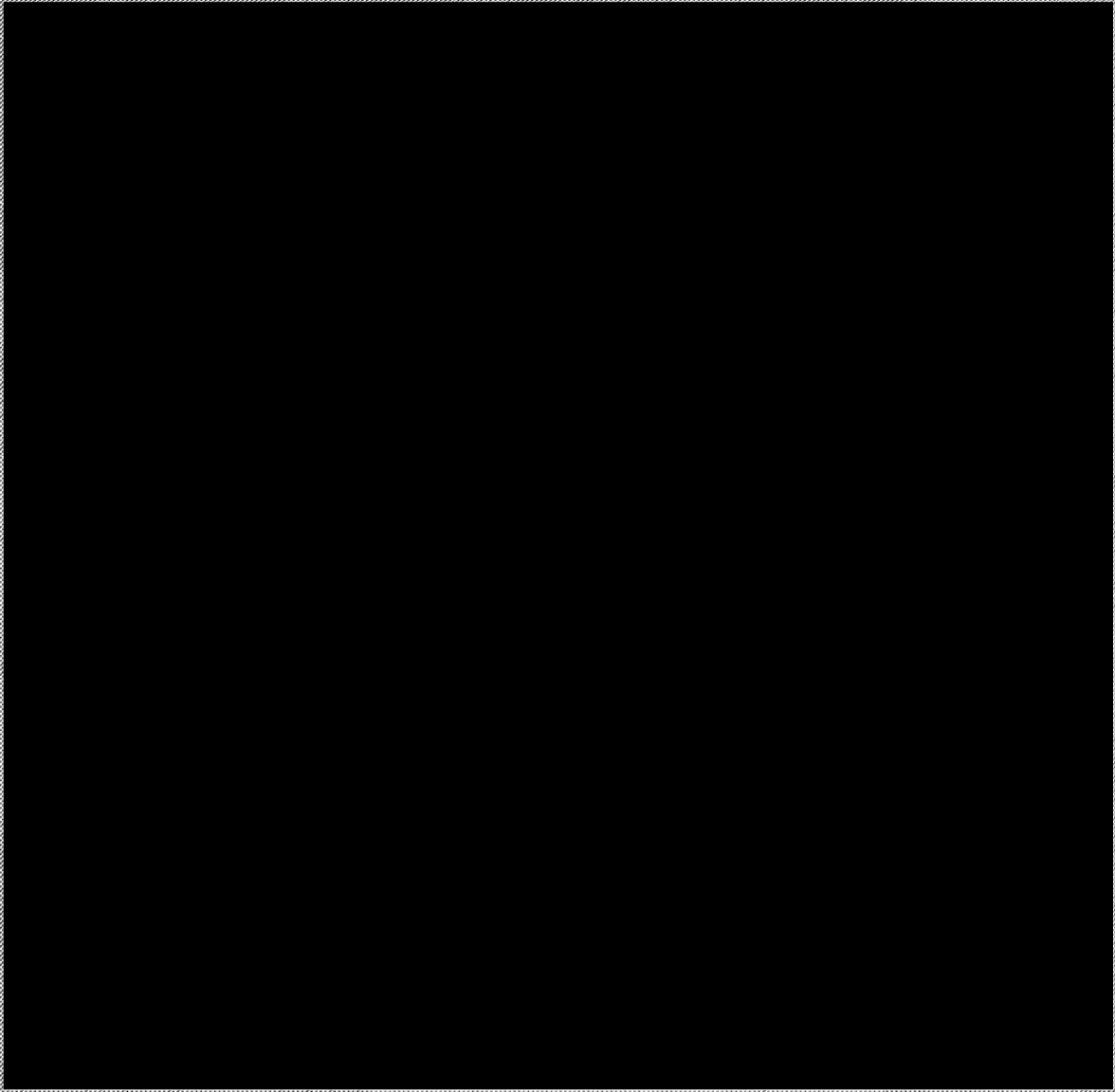
To: Alphonso David, Counsel to the Governor

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] of Empire State Development (ESD), respectively. Below please find a summary of my conversation.



**Date:** Sunday, December 13 2020 12:04 PM

**Subject:** [Chat #9895]

**From:** Rich Azzopardi [REDACTED]

**To:** [REDACTED] [Joshua Vlasto (owner)]; [REDACTED] [Dani Lever]; [REDACTED] [Rich Bamberger];  
[REDACTED] [Steven M. Cohen];

---

Confirm receipt and that they're on the right order plz

----METADATA INFORMATION----

**Device Owner:**

[REDACTED] Josh Vlasto

**ICCID:**

[REDACTED]

EXHIBIT

13

**Date:** Sunday, December 13 2020 12:05 PM

**Subject:** [Chat #9896]

**From:** Joshua Vlasto [REDACTED]

**To:** [REDACTED] [Dani Lever] [REDACTED] [Rich Bamberger]; [REDACTED] [Steven M. Cohen];  
[REDACTED] [Rich Azzopardi];

---

Reading now

----METADATA INFORMATION----

**Device Owner:**

[REDACTED] Josh Vlasto

**ICCID:**

[REDACTED]

**Date:** Sunday, December 13 2020 12:06 PM

**Subject:** [Chat #9897]

**From:** Dani Lever [REDACTED]

**To:** [REDACTED] [Joshua Vlasto (owner)]; [REDACTED] [Rich Bamberger]; [REDACTED] [Steven M. Cohen];  
[REDACTED] [Rich Azzopardi];

---

Do we have additional details of complaints made against her

----METADATA INFORMATION----

**Device Owner:**

[REDACTED] Josh Vlasto

**ICCID:**

[REDACTED]

**Date:** Sunday, December 13 2020 12:07 PM

**Subject:** [Chat #9898]

**From:** Dani Lever [REDACTED]

**To:** [REDACTED] [Joshua Vlasto (owner)]; [REDACTED] [Rich Bamberger]; [REDACTED] [Steven M. Cohen];  
[REDACTED] [Rich Azzopardi];

---

This just mentions them but doesn't explain what they were

----METADATA INFORMATION----

**Device Owner:**

[REDACTED] Josh Vlasto

**ICCID:**

[REDACTED]



**Date:** Sunday, December 13 2020 12:07 PM

**Subject:** [Chat #9899]

**From:** Rich Bamberger [REDACTED]

**To:** [REDACTED] [Joshua Vlasto (owner)]; [REDACTED] [Dani Lever]; [REDACTED] [Steven M. Cohen];  
[REDACTED] [Rich Azzopardi];

---

Dani Are you calling Dana with these?

----METADATA INFORMATION----

**Device Owner:**

[REDACTED] Josh Vlasto

**ICCID:**

[REDACTED]

**Date:** Sunday, December 13 2020 12:08 PM

**Subject:** [Chat #9900]

**From:** Rich Azzopardi [REDACTED]

**To:** [REDACTED] [Joshua Vlasto (owner)]; [REDACTED] [Dani Lever]; [REDACTED] [Rich Bamberger];  
[REDACTED] [Steven M. Cohen];

**Attachments:** [REDACTED]

---

----METADATA INFORMATION-----

**Device Owner:**

[REDACTED] Josh Vlasto

**ICCID:**

[REDACTED]

---

**Full Name:** [REDACTED]  
**Last Name:** [REDACTED]  
**First Name:** [REDACTED]  
**Company:** [REDACTED]

**Home:** [REDACTED]  
**Primary Phone:** [REDACTED]

**E-mail:** [REDACTED]@gmail.com  
**E-mail Display As:** [REDACTED] [REDACTED]@gmail.com)

**Date:** Sunday, December 13 2020 12:08 PM

**Subject:** [Chat #9901]

**From:** Dani Lever [REDACTED]

**To:** [REDACTED] [Joshua Vlasto (owner)]; [REDACTED] [Rich Bamberger]; [REDACTED] [Steven M. Cohen];  
[REDACTED] [Rich Azzopardi];

---

Ignore my text didn't see the messages above

----METADATA INFORMATION----

**Device Owner:**

[REDACTED] Josh Vlasto

**ICCID:**

[REDACTED]

**Date:** Sunday, December 13 2020 12:09 PM

**Subject:** [Chat #9902]

**From:** Joshua Vlasto [REDACTED]

**To:** [REDACTED] [Dani Lever]; [REDACTED] [Rich Bamberger]; [REDACTED] [Steven M. Cohen];  
[REDACTED] [Rich Azzopardi];

---

Do we have exhibit a?

----METADATA INFORMATION----

**Device Owner:**

[REDACTED] Josh Vlasto

**ICCID:**

[REDACTED]

**Date:** Sunday, December 13 2020 12:10 PM

**Subject:** [Chat #9903]

**From:** Rich Azzopardi [REDACTED]

**To:** [REDACTED] [Joshua Vlasto (owner)]; [REDACTED] [Dani Lever]; [REDACTED] [Rich Bamberger];  
[REDACTED] [Steven M. Cohen];

---

I do but it's emails that are frankly hard to follow

----METADATA INFORMATION-----

**Device Owner:**

[REDACTED] Josh Vlasto

**ICCID:**

[REDACTED]

**Date:** Sunday, December 13 2020 12:10 PM

**Subject:** [Chat #9904]

**From:** Joshua Vlasto [REDACTED]

**To:** [REDACTED] [Dani Lever] [REDACTED] [Rich Bamberger]; [REDACTED] [Steven M. Cohen];  
[REDACTED] [Rich Azzopardi];

---

Ok

----METADATA INFORMATION----

**Device Owner:**

[REDACTED] Josh Vlasto

**ICCID:**

[REDACTED]

**Date:** Sunday, December 13 2020 12:13 PM

**Subject:** [Chat #9905]

**From:** Steven M. Cohen [REDACTED]

**To:** [REDACTED] [Joshua Vlasto (owner)]; [REDACTED] [Dani Lever]; [REDACTED] [Rich Bamberger];  
[REDACTED] [Rich Azzopardi];

---

Why [REDACTED]?

----METADATA INFORMATION----

**Device Owner:**

[REDACTED] Josh Vlasto

**ICCID:**

[REDACTED]



**Date:** Sunday, December 13 2020 12:16 PM

**Subject:** [Chat #9906]

**From:** Rich Azzopardi [REDACTED]

**To:** [REDACTED] [Joshua Vlasto (owner)]; [REDACTED] [Dani Lever]; [REDACTED] [Rich Bamberger];  
[REDACTED] [Steven M. Cohen];

---

Different [REDACTED] than I think you're thinking of [REDACTED]. She was esd press Secretary. Lindsey treated her badly

----METADATA INFORMATION----

**Device Owner:**

[REDACTED] Josh Vlasto

**ICCID:**

[REDACTED]

**Date:** Sunday, December 13 2020 12:17 PM

**Subject:** [Chat #9907]

**From:** Steven M. Cohen <[REDACTED]>

**To:** [REDACTED] [Joshua Vlasto (owner)]; [REDACTED] [Dani Lever]; [REDACTED] [Rich Bamberger];  
[REDACTED] [Rich Azzopardi];

---

Ok. Good.

----METADATA INFORMATION-----

**Device Owner:**

[REDACTED] Josh Vlasto

**ICCID:**

[REDACTED]

**Date:** Sunday, December 13 2020 12:17 PM

**Subject:** [Chat #9908]

**From:** Rich Azzopardi <[REDACTED]>

**To:** [REDACTED] [Joshua Vlasto (owner)]; [REDACTED] [Dani Lever]; [REDACTED] [Rich Bamberger];  
[REDACTED] [Steven M. Cohen];

---

And she's willing to talk about that

----METADATA INFORMATION-----

**Device Owner:**

[REDACTED] Josh Vlasto

**ICCID:**

[REDACTED]

**Date:** Sunday, December 13 2020 02:53 PM

**Subject:** [Chat #11610]

**From:** Rich Bamberger [REDACTED]

**To:** [REDACTED] [Joshua Vlasto (owner)]; [REDACTED] [Dani Lever]; [REDACTED] [Melissa DeRosa];  
[REDACTED] [Rich Azzopardi];

---

Bernadette says she's filing in 30 for print We need to get her documents

----METADATA INFORMATION-----

**Device Owner:**

[REDACTED] Josh Vlasto

**ICCID:**

[REDACTED]

EXHIBIT

14

**Date:** Sunday, December 13 2020 02:56 PM

**Subject:** [Chat #11611]

**From:** Joshua Vlasto <[REDACTED]>

**To:** [REDACTED] [Dani Lever]; [REDACTED] [Rich Bamberger]; [REDACTED] [Melissa DeRosa];  
[REDACTED] [Rich Azzopardi];

---

Vielkind is in a fine place. Rich A, he's going to call you and if you give him the riff he'll likely go away.

----METADATA INFORMATION-----

**Device Owner:**

[REDACTED] Josh Vlasto

**ICCID:**

[REDACTED]

**Date:** Sunday, December 13 2020 02:57 PM

**Subject:** [Chat #11612]

**From:** Joshua Vlasto <[REDACTED]>

**To:** [REDACTED] [Dani Lever]; [REDACTED] [Rich Bamberger]; [REDACTED] [Melissa DeRosa];  
[REDACTED] [Rich Azzopardi];

---

He remember that he and I had talked about her during the congressional race and remembered that I said she was nuts

----METADATA INFORMATION-----

**Device Owner:**

[REDACTED] Josh Vlasto

**ICCID:**

[REDACTED]

**Date:** Sunday, December 13 2020 02:57 PM

**Subject:** [Chat #11613]

**From:** Joshua Vlasto [REDACTED]

**To:** [REDACTED] [Dani Lever]; [REDACTED] [Rich Bamberger]; [REDACTED] [Melissa DeRosa];  
[REDACTED] [Rich Azzopardi];

---

So he isn't in to it

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

**Device Owner:**

[REDACTED] Josh Vlasto

**ICCID:**

[REDACTED]

**Date:** Sunday, December 13 2020 02:57 PM  
**Subject:** [Chat #11614]  
**From:** Melissa DeRosa [REDACTED]  
**To:** [REDACTED] [Joshua Vlasto (owner)]; [REDACTED] [Dani Lever]; [REDACTED] [Rich Bamberger];  
[REDACTED] Rich Azzopardi];  
**Attachments:** IMG\_6802.jpeg

---

This is a month after she left

----METADATA INFORMATION----

**Device Owner:**

[REDACTED] Josh Vlasto

**ICCID:**

[REDACTED]



**Date:** Sunday, December 13 2020 03:16 PM

**Subject:** [Chat #11615]

**From:** Rich Bamberger [REDACTED]

**To:** [REDACTED] [Joshua Vlasto (owner)]; [REDACTED] [Dani Lever]; [REDACTED] [Melissa DeRosa];  
[REDACTED] [Rich Azzopardi];

---

Caruso says he's still going through documents

----METADATA INFORMATION----

**Device Owner:**

[REDACTED] Josh Vlasto

**ICCID:**

[REDACTED]

**Date:** Sunday, December 13 2020 03:16 PM

**Subject:** [Chat #11616]

**From:** Melissa DeRosa <[REDACTED]>

**To:** [REDACTED] [Joshua Vlasto (owner)]; [REDACTED] [Dani Lever]; [REDACTED] [Rich Bamberger];  
[REDACTED] [Rich Azzopardi];

---

Yeah but the deal was he couldn't post

----METADATA INFORMATION-----

**Device Owner:**

[REDACTED] Josh Vlasto

**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] [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]; [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

---

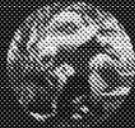
----METADATA INFORMATION-----

**Device Owner:**

[REDACTED] Bamberger, Rich

**ICCID:**

[REDACTED]



Edward McKinley @ByEdMcKi... · 1m

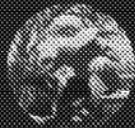
A former aide to Gov. Andrew Cuomo says he sexually harassed her and ran a hostile workplace environment

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

[timesunion.com/news/article/O...](https://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 unbefitting. 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 emphasized 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]; [REDACTED] Josh Vlasto; [REDACTED] Melissa DeRosa; [REDACTED]  
[Linda Lacowell]; [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]; [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] [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] [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.



4



5



68



**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.



1



32

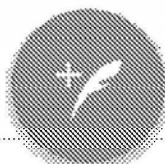


**Lindsey Boylan** @LindseyBo... · 19m ...

Learn more about my vision here:  
[lindseyfornewyork.com](http://lindseyfornewyork.com)



19



**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]



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

Yes

Sent from my iPad

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

Peter do u see this and r u doing?

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

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

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

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

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

Not til friday

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

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

Acting Counsel

Sent from my iPhone

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

Shipping

Sent from my iPad

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

Ok

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

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

EXHIBIT  
16

COHEN000633

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

---

Privileged/ Draft / Confidential

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

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

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

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

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

**PRIVILEGED / CONFIDENTIAL**

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

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

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

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

Timeline of the events in december – Boylan tweets

At the time gov was being considered for AG

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

Tweets on 11th and 13th

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

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

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

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

But also documents that were out there

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

Several sources had complained about how she had handled her departure, but they had

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Who leaked the docs?

Who approved it?

Was governor involved?

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

Once he's calling on gov to resign - speaker of assembly steps in and is doing same

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

Yesterday the AG announced lawyers

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

###

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

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

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

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

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

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

Subject: Re: Attorney Client privileged

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

---

From: Melissa DeRosa

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

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

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

Subject: Re: Attorney Client privileged

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

---

From: Melissa DeRosa

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

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

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

COHEN000636

Subject: Re: Attorney Client privileged

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

---

From: Melissa DeRosa

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

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

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

Subject: Re: Attorney Client privileged

Let's get on phone and discuss this am

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

Original Message

From: Lacewell, Linda A (DFS)

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

To: Beth Garvey

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

Subject: Re: Attorney Client privileged

**Date:** Monday, December 14 2020 12:59 PM  
**Subject:** [Chat #9688]  
**From:** Melissa DeRosa [REDACTED]  
**To:** [REDACTED] [Joshua Vlasto (owner)]; [REDACTED] [Dani Lever]; [REDACTED] [Rich Bamberger];  
[REDACTED] [Steven M. Cohen]; [REDACTED] [Linda Lacewell]; [REDACTED] [Rich Azzopardi];  
+16177809658 [Peter Ajemian];  
**Attachments:** Screenshot 2020-12-14 at 12.59.15 PM.jpeg

---

Thoughts?

----METADATA INFORMATION----

**Device Owner:**

[REDACTED] Josh Vlasto

**ICCID:**

[REDACTED]



Yes I heard about the tweet about comments supposedly made and there is just no truth to it.

OR

Yes I heard about the tweet and there is just no truth to it.

Did you comment on her appearance?

There is just no truth to the tweets

I support women having the opportunity to speak out – I believe in transparency but there was nothing inappropriate that happened here

**Date:** Monday, December 14 2020 01:00 PM

**Subject:** [Chat #9689]

**From:** Rich Azzopardi <[REDACTED]>;

**To:** [REDACTED] [Joshua Vlasto (owner)]; [REDACTED] [Dani Lever]; [REDACTED] [Rich Bamberger];  
[REDACTED] [Steven M. Cohen]; [REDACTED] [Linda Lacewell]; [REDACTED] [Melissa DeRosa];  
[REDACTED] Peter Ajemian];

---

Yes

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

**Device Owner:**

[REDACTED] Josh Vlasto

**ICCID:**

[REDACTED]



**Date:** Monday, December 14 2020 01:00 PM

**Subject:** [Chat #9690]

**From:** Joshua Vlasto [REDACTED]

**To:** [REDACTED] [Dani Lever]; [REDACTED] [Rich Bamberger]; [REDACTED] [Steven M. Cohen];  
[REDACTED] [Linda Lacewell]; [REDACTED] [Rich Azzopardi]; [REDACTED] [Melissa DeRosa];  
[REDACTED] [Peter Ajemian];

---

At the end "...but there is no truth in those statements."

----METADATA INFORMATION----

**Device Owner:**

[REDACTED] Josh Vlasto

**ICCID:**

[REDACTED]

**Date:** Monday, December 14 2020 01:02 PM

**Subject:** [Chat #9691]

**From:** Melissa DeRosa <[REDACTED]>

**To:** [REDACTED] [Joshua Vlasto (owner)]; [REDACTED] [Dani Lever]; [REDACTED] [Rich Bamberger];  
[REDACTED] [Steven M. Cohen]; [REDACTED] [Linda Lacewell]; [REDACTED] [Rich Azzopardi];  
[REDACTED] [Peter Ajemian];

**Attachments:** Screenshot 2020-12-14 at 1.01.43 PM.jpeg

---

----METADATA INFORMATION----

**Device Owner:**

[REDACTED] Josh Vlasto

**ICCID:**

[REDACTED]

Yes I heard about the tweet about comments supposedly made and there is just no truth to it.

OR

Yes I heard about the tweet and there is just no truth to it.

Did you comment on her appearance?

There is just no truth to the tweets

I support women having the opportunity to speak out – I believe in transparency but there is just no truth to the tweet

**Date:** Monday, December 14 2020 01:02 PM

**Subject:** [Chat #9692]

**From:** Joshua Vlasto [REDACTED]

**To:** [REDACTED] [Dani Lever] [REDACTED] [Rich Bamberger]; [REDACTED] [Steven M. Cohen];  
[REDACTED] [Linda Lacewell]; [REDACTED] [Rich Azzopardi]; [REDACTED] [Melissa DeRosa];  
[REDACTED] [Peter Ajemian];

---

tweetS

----METADATA INFORMATION----

**Device Owner:**

[REDACTED] Josh Vlasto

**ICCID:**

[REDACTED]

**Date:** Monday, December 14 2020 01:02 PM

**Subject:** [Chat #9693]

**From:** Dani Lever [REDACTED]

**To:** [REDACTED] [Joshua Vlasto (owner)]; [REDACTED] [Rich Bamberger]; [REDACTED] [Steven M. Cohen];  
[REDACTED] [Linda Lacewell]; [REDACTED]; [Rich Azzopardi]; [REDACTED] [Melissa DeRosa];  
[REDACTED] [Peter Ajemian];

---

I'd do the second

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

**Device Owner:**

[REDACTED] Josh Vlasto

**ICCID:**

[REDACTED]

**Date:** Monday, December 14 2020 01:03 PM

**Subject:** [Chat #9694]

**From:** Dani Lever <[REDACTED]>

**To:** [REDACTED] [Joshua Vlasto (owner)]; [REDACTED] [Rich Bamberger]; [REDACTED] [Steven M. Cohen];  
[REDACTED] [Linda Lacewell]; [REDACTED]; [Rich Azzopardi]; [REDACTED] [Melissa DeRosa];  
[REDACTED] [Peter Ajemian];

---

The first gives her too much room to define “inappropriate”

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

**Device Owner:**

[REDACTED] Josh Vlasto

**ICCID:**

[REDACTED]

**Date:** Monday, December 14 2020 01:03 PM

**Subject:** [Chat #9695]

**From:** Melissa DeRosa [REDACTED];

**To:** [REDACTED] [Joshua Vlasto (owner)]; [REDACTED] [Dani Lever]; [REDACTED] [Rich Bamberger];  
[REDACTED] [Steven M. Cohen]; [REDACTED] [Linda Lacewell]; [REDACTED] [Rich Azzopardi];  
[REDACTED] Peter Ajemian];

---

But which one in this group

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

**Device Owner:**

[REDACTED] Josh Vlasto

**ICCID:**

[REDACTED]

**Date:** Monday, December 14 2020 01:04 PM

**Subject:** [Chat #9696]

**From:** Joshua Vlasto [REDACTED]

**To:** [REDACTED] [Dani Lever]; [REDACTED] [Rich Bamberger]; [REDACTED] [Steven M. Cohen];  
[REDACTED] [Linda Lacewell]; [REDACTED] [Rich Azzopardi]; [REDACTED] [Melissa DeRosa];  
[REDACTED] [Peter Ajemian];

---

I think both are fine so he has either he can use

----METADATA INFORMATION----

**Device Owner:**

[REDACTED] Josh Vlasto

**ICCID:**

[REDACTED]



**Date:** Monday, December 14 2020 01:09 PM

**Subject:** [Chat #9697]

**From:** Steven M. Cohen [REDACTED]

**To:** [REDACTED] [Joshua Vlasto (owner)]; [REDACTED] [Dani Lever]; [REDACTED] [Rich Bamberger];  
[REDACTED] [Linda Lacewell]; [REDACTED] [Rich Azzopardi]; [REDACTED] [Melissa DeRosa];  
[REDACTED] [Peter Ajemian];

---

I think both are fine. The second is more fluid and less likely to cause a trip.

----METADATA INFORMATION----

**Device Owner:**

[REDACTED] Josh Vlasto

**ICCID:**

[REDACTED]

**Date:** Monday, December 14 2020 01:20 PM

**Subject:** [Chat #9698]

**From:** Linda Lacewell <[REDACTED]>

**To:** [REDACTED] [Joshua Vlasto (owner)]; [REDACTED] [Dani Lever]; [REDACTED] [Rich Bamberger];  
[REDACTED] [Steven M. Cohen]; [REDACTED] [Rich Azzopardi]; [REDACTED] [Melissa DeRosa];  
[REDACTED] [Peter Ajemian];

---

Does he get away with not answering if he commented on her appearance

----METADATA INFORMATION----

**Device Owner:**

[REDACTED] Josh Vlasto

**ICCID:**

[REDACTED]

**Date:** Monday, December 14 2020 01:27 PM

**Subject:** [Chat #9699]

**From:** Steven M. Cohen [REDACTED]

**To:** [REDACTED] [Joshua Vlasto (owner)]; [REDACTED] [Dani Lever]; [REDACTED] [Rich Bamberger];  
[REDACTED] [Linda Lacewell]; [REDACTED]; [Rich Azzopardi]; [REDACTED] [Melissa DeRosa];  
[REDACTED] [Peter Ajemian];

---

I think going down that path doesn't end cleanly. "No" doesn't make sense. "Yes" invites another Q and sounds funky. And a "I often comment" seems similarly weird. The problem is LB doesn't mean what she says. she must mean "he made a comment that was an inappropriate sexual innuendo". To that the answer is a strong "it didn't happen". But you're forced to unpack it to get to the direct NO.

----METADATA INFORMATION----

**Device Owner:**

[REDACTED] Josh Vlasto

**ICCID:**

[REDACTED]

**Date:** Tuesday, December 15 2020 01:52 PM

**Subject:** [Chat #9776]

**From:** Rich Azzopardi [REDACTED]

**To:** [REDACTED] [Joshua Vlasto (owner)]; [REDACTED] [Dani Lever]; [REDACTED] [Rich Bamberger];  
[REDACTED] [Steven M. Cohen]; [REDACTED] [Linda Lacewell]; [REDACTED] [Melissa DeRosa];  
[REDACTED] [Peter Ajemian];

---

Times Union is calling around to former staffers trying to feel out if boylan is telling the truth or is full of it (so far it sounds like the latter) Might as well feed them our people.

**----METADATA INFORMATION----**

**Device Owner:**

[REDACTED] Josh Vlasto

**ICCID:**

[REDACTED]



**Date:** Tuesday, December 15 2020 01:52 PM

**Subject:** [Chat #9777]

**From:** Melissa DeRosa <[REDACTED]>

**To:** [REDACTED] [Joshua Vlasto (owner)]; [REDACTED] Dani Lever; [REDACTED] [Rich Bamberger];  
[REDACTED] [Steven M. Cohen]; [REDACTED] [Linda Lacewell]; [REDACTED] [Rich Azzopardi];  
[REDACTED] [Peter Ajemian];

---

Yes

----METADATA INFORMATION----

**Device Owner:**

[REDACTED] Josh Vlasto

**ICCID:**

[REDACTED]

**Date:** Tuesday, December 15 2020 01:52 PM

**Subject:** [Chat #9778]

**From:** Melissa DeRosa <[REDACTED]>

**To:** [REDACTED] [Joshua Vlasto (owner)]; [REDACTED] [Dani Lever]; [REDACTED] [Rich Bamberger];  
[REDACTED] [Steven M. Cohen]; [REDACTED] [Linda Lacewell]; [REDACTED] [Rich Azzopardi];  
[REDACTED] [Peter Ajemian];

---

[REDACTED]

----METADATA INFORMATION----

**Device Owner:**

[REDACTED] Josh Vlasto

**ICCID:**

[REDACTED]

**Date:** Tuesday, December 15 2020 01:52 PM

**Subject:** [Chat #9779]

**From:** Rich Bamberger [REDACTED]

**To:** [REDACTED] [Joshua Vlasto (owner)]; [REDACTED] [Dani Lever]; [REDACTED] [Steven M. Cohen];  
[REDACTED] [Linda Lacewell]; [REDACTED] [Rich Azzopardi]; [REDACTED] [Melissa DeRosa];  
[REDACTED] [Peter Ajemian];

---

And [REDACTED]

----METADATA INFORMATION----

**Device Owner:**

[REDACTED] Josh Vlasto

**ICCID:**

[REDACTED]

**Date:** Tuesday, December 15 2020 01:52 PM

**Subject:** [Chat #9780]

**From:** Melissa DeRosa [REDACTED]

**To:** [REDACTED] [Joshua Vlasto (owner)]; [REDACTED] [Dani Lever]; [REDACTED] [Rich Bamberger];  
[REDACTED] [Steven M. Cohen]; [REDACTED] [Linda Lacewell]; [REDACTED] [Rich Azzopardi];  
[REDACTED] [Peter Ajemian];

---

Yes

----METADATA INFORMATION----

**Device Owner:**

[REDACTED] Josh Vlasto

**ICCID:**

[REDACTED]



**Date:** Tuesday, December 15 2020 01:53 PM

**Subject:** [Chat #9781]

**From:** Rich Azzopardi <[REDACTED]>

**To:** [REDACTED] [Joshua Vlasto (owner)]; [REDACTED] [Dani Lever]; [REDACTED] [Rich Bamberger];  
[REDACTED] [Steven M. Cohen]; [REDACTED] [Linda Lacewell]; [REDACTED] [Melissa DeRosa];  
[REDACTED] [Peter Ajemian];

---

Think we can have them call them? This way they can't say we fed them.

----METADATA INFORMATION----

**Device Owner:**

[REDACTED] Josh Vlasto

**ICCID:**

[REDACTED]

**Date:** Tuesday, December 15 2020 01:54 PM

**Subject:** [Chat #9782]

**From:** Melissa DeRosa [REDACTED]

**To:** [REDACTED] [Joshua Vlasto (owner)]; [REDACTED] [Dani Lever]; [REDACTED] [Rich Bamberger];  
Steven M. Cohen; [REDACTED] [Linda Lacewell]; [REDACTED] [Rich Azzopardi];  
[REDACTED] [Peter Ajemian];

---

Call [REDACTED]

----METADATA INFORMATION----

**Device Owner:**

[REDACTED] Josh Vlasto

**ICCID:**

[REDACTED]

**Date:** Tuesday, December 15 2020 02:07 PM

**Subject:** [Chat #9787]

**From:** Rich Bamberger [REDACTED]

**To:** [REDACTED] [Joshua Vlasto (owner)]; [REDACTED] [Dani Lever]; [REDACTED] [Steven M. Cohen];  
[REDACTED] [Linda Lacewell]; [REDACTED] [Rich Azzopardi]; [REDACTED] [Melissa DeRosa];  
[REDACTED] [Peter Ajemian];

---

Who are we having them call ?

----METADATA INFORMATION----

**Device Owner:**

[REDACTED] Josh Vlasto

**ICCID:**

[REDACTED]

**Date:** Tuesday, December 15 2020 02:07 PM  
**Subject:** [Chat #9788]  
**From:** Rich Azzopardi [REDACTED]  
**To:** [REDACTED] [Joshua Vlasto (owner)]; [REDACTED] [Dani Lever]; [REDACTED] [Rich Bamberger];  
[REDACTED] [Steven M. Cohen]; [REDACTED] [Linda Laceywell]; [REDACTED] [Melissa DeRosa];  
[REDACTED] [Peter Ajemian];  
**Attachments:** Ed Mckinley.vcf

---

----METADATA INFORMATION----

**Device Owner:**  
[REDACTED] Josh Vlasto  
**ICCID:**  
[REDACTED]

---

**Full Name:** Ed Mckinley  
**Last Name:** Mckinley  
**First Name:** Ed  
**Company:** Tu

**Primary Phone:** [REDACTED]

**E-mail:** [REDACTED]@timesunion.com  
**E-mail Display As:** Ed Mckinley [REDACTED]@timesunion.com)

**Date:** Tuesday, December 15 2020 02:08 PM

**Subject:** [Chat #9789]

**From:** Rich Bamberger [REDACTED]

**To:** [REDACTED] [Joshua Vlasto (owner)]; [REDACTED] [Dani Lever]; [REDACTED] [Steven M. Cohen];  
[REDACTED] [Linda Lacewell]; [REDACTED] [Rich Azzopardi]; [REDACTED] [Melissa DeRosa];  
[REDACTED] [Peter Ajemian];

---

K

----METADATA INFORMATION----

**Device Owner:**

[REDACTED] Josh Vlasto

**ICCID:**

[REDACTED]

**Date:** Tuesday, December 15 2020 02:09 PM

**Subject:** [Chat #9790]

**From:** Rich Azzopardi [REDACTED]

**To:** [REDACTED] [Joshua Vlasto (owner)]; [REDACTED] [Dani Lever]; [REDACTED] [Rich Bamberger];  
[REDACTED] [Steven M. Cohen]; [REDACTED] [Linda Lacewell]; [REDACTED] [Melissa DeRosa];  
[REDACTED] [Peter Ajemian];

---

And the stance should be: I hear you're calling around. I've been sick about this all week. She's a [REDACTED] etc.

----METADATA INFORMATION----

**Device Owner:**

[REDACTED] Josh Vlasto

**ICCID:**

[REDACTED]

---

**From:** Linda Lacewell [REDACTED]@gmail.com>  
**Sent:** Wednesday, December 16, 2020 12:34 PM  
**To:** Rich Azzopardi  
**Subject:** Fwd: Attorney Client Privileged Communication  
**Attachments:** Response by former staffer.docx

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

**From:** Linda Lacewell [REDACTED]@gmail.com>  
**Date:** Wed, Dec 16, 2020 at 12:28 PM  
**Subject:** Fwd: Attorney Client Privileged Communication  
**To:** Stephanie Benton [REDACTED]@exec.ny.gov>

So you have

Sent from my iPhone

Begin forwarded message:

**From:** Steven Cohen [REDACTED]@yahoo.com>  
**Date:** December 16, 2020 at 11:40:12 AM EST  
**To:** Melissa DeRosa [REDACTED]@gmail.com>, Roberta Kaplan [REDACTED]@kaplanhecker.com>, Linda Lacewell [REDACTED]@gmail.com>  
**Subject:** Attorney Client Privileged Communication



We are former senior staff members of Governor Andrew Cuomo's Office. Collectively, we served for over 20 years with the Governor and worked at the highest level of State government. Dani Lever served as Director of Communications. Cathy Calhoun as State Director of Operations. Alphonso David served as Counsel.

We are writing in response to the claims made on twitter by Lindsay Boylan. We do so reluctantly. Each of us is a longtime and active supporter of civil rights and women's engagement. We believe women must be heard and that allegations of workforce misconduct must be taken seriously. However, when an accusation is unfounded and seemingly launched to gain a political advantage, standing by silently is not an option. To do otherwise, risks delegitimizing the rights of survivors of workplace abuse.

We each know Ms. Boylan personally; we served with her when she was an advisor to the Governor both in the Governor's Office and at Empire State Development Authority. It is likely that almost every interaction between the Governor and Ms. Boylan took place in either our presence or the presence of another Senior Staff member. Indeed, Ms. Boylan says as much herself. What we witnessed was a forceful and demanding Chief Executive requiring his staff do their best at all time. It was challenging, hard work and at times it was bruising. In other words, it is what you would expect in a high-pressure environment where the accomplishments matter and failures have consequences. It isn't for everyone. What we did not see was any kind of sexual harassment suggested by Ms. Boylan's summary and unsubstantiated assertion.

Unfortunately, we are also aware that during Ms. Boylan's relatively brief tenure, no less than six complaints were raised about her conduct. The complaints came from peers and subordinates, from men and woman. We are not here to castigate Ms. Boylan. But it is relevant to assessing Ms. Boylan's claim, to understand that she left State employment after being formally confronted by repeated complaints that she "treats [subordinates] like children" and made them feel like a

“punching bag”, was “degrading”, “insulting”, and “harassing”. As a consequence of inappropriately firing a subordinate, Ms. Boylan was formally counseled about her conduct by Mr. David. In response, Ms. Boylan resigned. Several days later Ms. Boylan contacted Mr. David and said she changed her mind and wanted to return to her position. Mr. David said that was not possible.

During her tenure, at the time of her departure and after her departure, Ms. Boylan praised the Governor and the staff for his work and accomplishments. [ADD COMMENTS]. No complaint – formal or informal – was ever raised about the Governor. And, while we are fully aware of the all too frequent phenomenon where those are subject to abuse do not come forward and even deny the abuse they have endured, we think it is significant to note that Ms. Boylan only began raising complaints about her experience when she launched a Congressional campaign. And even as she complained that the Governor’s Office was an abusive environment (an assertion we dispute), the claim of sexual harassment was never mentioned. Indeed, the accusation did not occur until she launched a campaign for Manhattan Borough President. We do not know Ms. Boylan’s motivation but the timing is not lost on us.

*[Option: Also, her political campaign consultant is also a consultant to a political opponent of the Governor, Jumaane Williams, who has said he is considering running against the Governor. Ms. Boylan is supported by lawyers and financial backers of Donald Trump: an active opponent of the Governor. We understand from credible sources that female members on her campaign team were offended and actually quit when they heard she and her campaign planned to make such claims for purely political advantage.]*

[Note: I would give this piece to a reporter rather than include in the letter] *The political retribution against the Governor by Ms. Boylan comes as no surprise and was directly forecasted by her. In March, during the height of the COVID crisis, the Governor issued an Executive Order truncating the petitioning period and reducing the number of*

*signatures mandated to run for public office. The order effected every political race in the state. However, Ms. Boylan assumed it was a personal attack on her and believed the change was not helpful for her candidacy for Congress challenging Congressman Nadler. Immediately thereafter, Ms. Boylan texted Robert Mujica, State Budget Director, "Absolutely not helpful please relay that while we are ok, I see what the point is here and I will find ways to respond. Life is Long. And so is my memory. And so are my resources." She texted Dani Lever, Director of Communications, at the same time. "Absolutely not helpful specific response to a tragedy but please relay that while we are ok, I see what the point is here and I will find ways to respond to the message. The future is coming after assholes." Ms. Boylan's political motivation against the Governor was clearly premediated and purposeful.*

We are not naive. We understand politics, especially in the current environment, can be a nasty and dirty business. We know the Governor understands that one must endure the slings and arrows to be in the public arena. But it demeans all women when allegations of harassment are made for political *[or extortive]* purposes.

We encourage all women to come forward with valid complaints of harassment. But weaponizing a claim of sexual harassment for personal political gain or to achieve notoriety cannot be tolerated. False claims demean the veracity of credible claims.

*[I don't think we need this. Too sanctimonious. It is sad that political opportunism takes precedence over true political aspirations for progressive public service and advances designed to protect women in the workplace can be abused for unethical purposes.]*

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

To: Ronan Farrow [REDACTED]@newyorker.com]; [REDACTED]@newyorker.com; [REDACTED]@newyorker.com]; [REDACTED]@newyorker.com  
[REDACTED]@newyorker.com]

From: Peter Ajemian[O=NYEC/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8B61F5B5B1CF43CFAA2249DDBCD01ADC-PETER  
AJEMIAN]

Sent: Thur 3/18/2021 8:56:43 PM Eastern Daylight Time

Subject: Re: From Rich Azzopardi

---

In response to the new "mean girls" attack, can you please add -

From a spokesperson: "Melissa is one of the most brilliant, accomplished and hardest working public servants in government. Enough with the sexist tropes."

Original Message

From: Peter Ajemian

Sent: Thursday, March 18, 2021 7:26 PM

To: Ronan Farrow; [REDACTED]@newyorker.com; [REDACTED]@newyorker.com

Subject: From Rich Azzopardi

Please see below from Rich Azzopardi regarding the letter. We will likely have a comment regarding Lindsey's added shot at Melissa about being a "mean girl." Along those lines, [REDACTED], can you please let me know if there are other mentions of Melissa that we didn't discuss yesterday? Thank you.

> On Mar 18, 2021, at 7:17 PM, Richard Azzopardi <[REDACTED]@exec.ny.gov> wrote:

>

> "The first I heard of any letter was this week when contacted by another outlet." -Rich Azzopardi

>

EXHIBIT

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**From:** [REDACTED]@andrewcuomo.com>  
**Sent:** Monday, February 1, 2021 6:28 PM  
**To:** Melissa DeRosa [REDACTED]; Rich Azzopardi  
**Subject:** These are all the entities/people she paid for Fed race

Let me know if we should dig into any –

recipient_name
ACT BLUE
ADVOCATES FOR JUSTICE CHARTERED ATTORNEYS
AKN ADVISORS LLC
ALLAN ONDERCHAIN
AMAZON
AMERICAN AIRLINES
AT&T
ATLAS DIRECT MAIL
BANK OF AMERICA
BARRY, DANIEL
BJC TECHNOLOGY LLC
BLAIR, KIMBERLY
BOARD OF ELECTIONS, THE CITY OF NEW YORK
BOYLAN, LINDSEY
CALHOUN, VERONICA
CERRATO, ASHLEIGH
CL DESIGN USA, LLC
CLOUDFLARE INC.
DELTA AIRLINES
FACEBOOK. INC
FRESHDIRECT.COM
GAGLERS, INC
GOOGLE LLC
GRAHAM, SAVANNAH
GREENWICH VILLAGE MAIL CENTER
GUY-HERMAN, JESSE
HAGEN, KEVIN
HAMODIA
HANNAH MEDIA INC
HOME PAY
IPAGE.COM
J.BAILEY MORGAN
JAYSON, JORDAN



JMP VERDANT COMMUNICATIONS
JOHN ROBINSON
KEMENY, JOEY
KEMENY, JOSEPH
KIRST, SEAMUS
KNOCKCO, LLC
KRISTYNA BARRY
LABELS & LISTS INC
LEFT RISING
MIDDLE SEAT
MIKEY MOTION PICTURES, LLC
MOUDGIL-SHAH, SAPNA
NEW YORK DEPT. OF TAXATION
NEW YORK STATE DEMOCRATIC COMMITTEE
NEWS REPORT
NGP VAN
NUMERO, INC
ONDERCHAIN, ALLAN
OXFORD BENEFIT MANAGEMENT
PAYCHEX, INC.
PHONEBURNER
PIPL, INC.
PRIME NEW YORK
PROGRESSIVES CONSULTING, LLC
RADIX MEDIA
REACH PROGRESS PBC
REACH.COM
RESONANT PICTURES
ROBINSON, JOHN
ROCKET SCIENCE GROUP LLC (MAILCHIMP)
SEPTIMO, AMANDA
SEVEN GABLES INN
SPECTRUM REACH
STAPLES
SYKES GLOBAL COMMUNICATIONS
THEODO INC.
TRIANGLE ADVISERS, LLC
TURNEY & HALL
TVEYES INC.
TWITTER
UBER
UNDERDOG STRATEGIES
UNITED AIRLINES
USPS

USZOOM

VICTORIA RESEARCH



**Date:** Sunday, February 21 2021 06:08 PM  
**Subject:** Re: Lindsey.  
**From:** Josh Vlasto [REDACTED]@gmail.com>  
**To:** Melissa DeRosa [REDACTED]@exec.ny.gov>;  
**CC:** Elkan Abramowitz [REDACTED]@maglaw.com>; Judith Mogul [REDACTED]@exec.ny.gov>; Linda A Lacewell (dfs.ny.gov) [REDACTED]@dfs.ny.gov>; Peter Ajemian [REDACTED]@exec.ny.gov>; Richard Azzopardi <[REDACTED]@exec.ny.gov>; Steven Cohen (esd.ny.gov) [REDACTED]@esd.ny.gov>;

Please don't send this please please please

On Sun, Feb 21, 2021 at 6:03 PM Melissa DeRosa <[REDACTED]@exec.ny.gov> wrote:  
Adding people

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

**From:** Richard Azzopardi  
**Sent:** Sunday, February 21, 2021 5:35 PM  
**To:** Steven Cohen (esd.ny.gov)  
**Cc:** Melissa DeRosa; Peter Ajemian  
**Subject:** Re: Lindsey.

He did not. He read it to me  
Sent from my BlackBerry 10 smartphone on the Verizon Wireless 4G LTE network.

**From:** Cohen, Steven (ESD)  
**Sent:** Sunday, February 21, 2021 5:35 PM  
**To:** Richard Azzopardi  
**Cc:** Melissa DeRosa; Peter Ajemian  
**Subject:** Re: Lindsey.

"She is a disgruntled former employee who quit after BEING COUNSELED AS A RESULT OF MULTIPLE DOCUMENTED INCIDENTS OF harassment and ABUSE OF HER co-workers and subordinates. She later asked to return to the chamber, A REQUEST THAT WAS DENIED, AND NOW SEEMS INTENT ON RAISING SPURIOUS ALLEGATIONS TO FURTHER HER OWN RUN FOR OFFICE."

that request was not granted."

On Feb 21, 2021, at 5:17 PM, Richard Azzopardi [REDACTED]@exec.ny.gov> wrote:

"She is is disgruntled former employee who quit after being counseled on multiple harassment complaints against co-workers and subordinates. She later asked to return to the chamber and that request

was not granted."

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

IMPORTANT: This e-mail message and any attachments contain information intended for the exclusive use of the individual(s) or entity to whom it is addressed and may contain information that is proprietary, privileged, confidential and/or exempt from disclosure under applicable law. If you are not the intended recipient, you are hereby notified that any viewing, copying, disclosure or distribution of this information may be subject to legal restriction or sanction. Please immediately notify the sender by electronic mail or notify the System Administrator by telephone [REDACTED] or e-mail ([REDACTED]@esd.ny.gov) and delete the message. Thank you.

---

**From:** Lis Smith [REDACTED]@gmail.com>  
**Sent:** Wednesday, February 24, 2021 2:59 PM  
**To:** Melissa DeRosa  
**Cc:** Dani Lever; richard bamberger; rich.azzopardi; Peter Ajemian; Josh Vlasto  
**Subject:** Re:

i think the tweets with no fingerprints/OTR are fine to pass along.

i would lay off the other stuff b/c it would only point back to the governor's office and reinforce bully storyline.

On Wed, Feb 24, 2021 at 2:47 PM Melissa DeRosa <[REDACTED]@gmail.com> wrote:

Lindsey continued to tweet positive things about the administration/the governor -- even after she claims that he kissed her (an accusation the governor's office denies) -- including on:

8/15/18: "proud to work for a governor who takes women seriously",

9/14/18: "so proud of my boss Gov Cuomo and all of Team Cuomo"

11/4/18: "Andrew Cuomo is NY's best Choice for Governor"

2/29/19: "Way to Go, LT Gov Cuomo, Gov Cuomo. Exactly the pragmatic things we need to change outcomes and help families succeed"

9/26/18 at 1030am - Lindsey was confronted about complaints of bullying and harassment three subordinates -  
- faced with these allegations about her misconduct, she resigned

9/30/18 at 10:06am - Lindsey contacts the Governor's Counsel, Alphonso David, seeking to get her job back;  
the administration believes it was best to part ways and do not allow her to come back to the Chamber

Below are text messages Lindsey Boylan sent two top members of the administration after the Governor signed an Executive Order truncating the petitioning period in the height of COVID -- she clearly threatens retaliation, including saying "life is long, and so is my memory and so are my resources". In a separate thread to another top Cuomo staffer after the EO was signed she says "I see what the point is here and I will find ways to respond to the message. The future is coming after assholes"

---

**From:** Josh Vlasto [REDACTED]@gmail.com >  
**Sent:** Wednesday, February 24, 2021 7:05 PM  
**To:** Rich Azzopardi [REDACTED]  
**Attachments:** 202012131419.pdf



Memorandum

To: Alphonso David, Counsel to the Governor

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

Re: Confidential Personnel Matter

Date: September 20, 2018

---

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





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

**MEMORANDUM TO FILE**

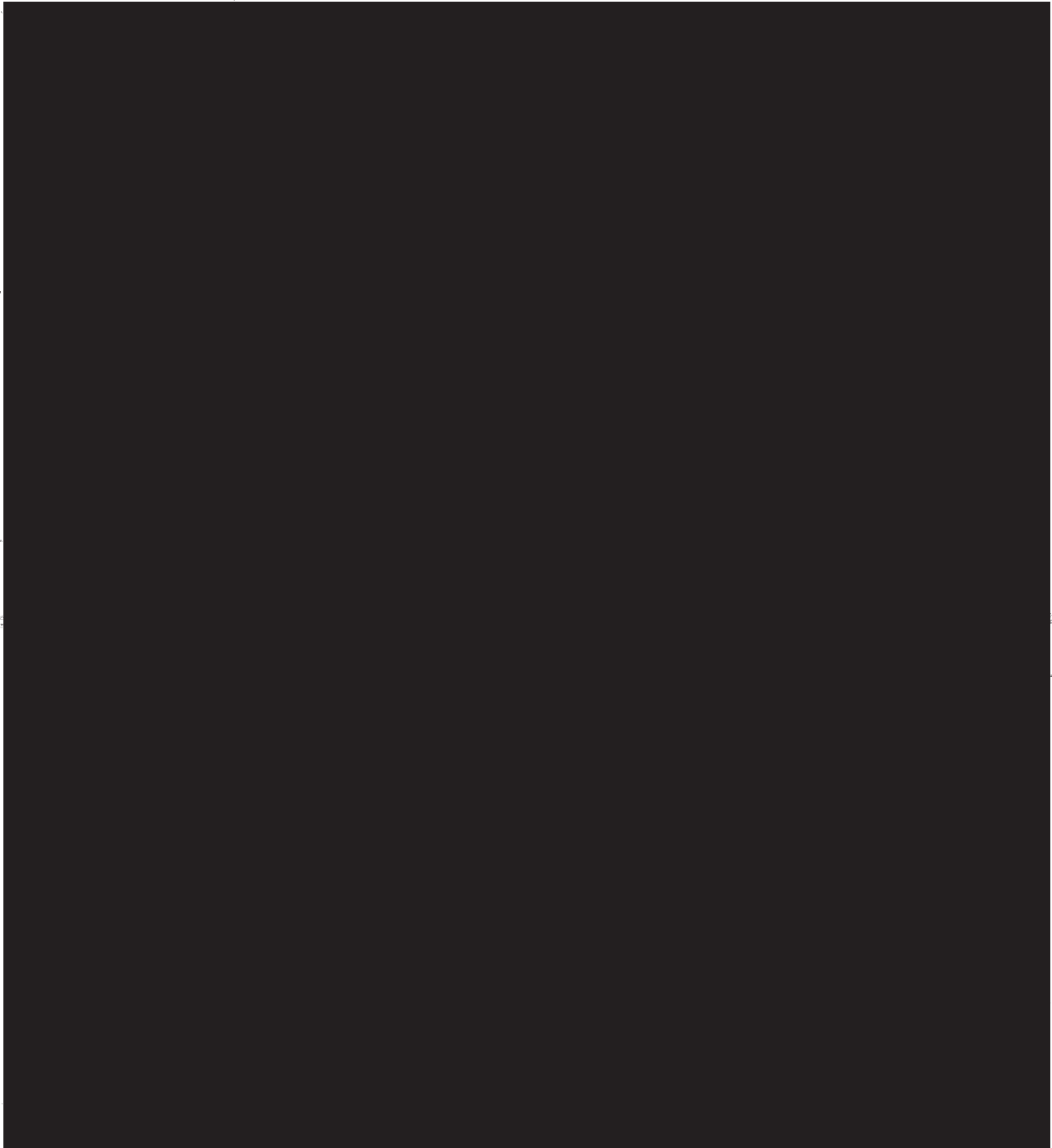
**To:** Alphonso David, Counsel to the Governor  
**From:** Julia Pinover Kupiec, Assistant Counsel and Chamber Ethics Officer  
**Date:** September 26, 2018  
**Subject:** Employment Counseling for Lindsay Boylan

1. **Purpose**

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



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





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



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

Privileged and confidential  
Attorney client communication  
Attorney work product



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

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

---

**Sent:** Tuesday, March 2, 2021 8:02 PM  
**To:** Peter Ajemien [REDACTED]; [REDACTED]; Rich Azzopardi  
**Subject:** CHAT - 01365 - 2021/03/02

[REDACTED]  
3/2/2021 8:01 PM

Mdr asked squad to circ the stasi piece defending gov, and folks dont feel comfortable with that. If she just wants it pinned to him, they will handle, but not sending it wide [REDACTED]

---

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

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

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

---

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

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

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

---

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

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

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

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

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

EXHIBIT  
26

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

From a spokesperson: "This is not true."

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

**this is not what**

---

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

we can do more work during fact checking

---

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

ok. fixing that and shipping

---

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

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

Sent from my iPhone

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

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

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

**From:** Peter Ajemian [REDACTED]@exec.ny.gov>

**Sent:** Sunday, March 14, 2021 10:06 PM

**To:** Beth Garvey [REDACTED]@exec.ny.gov>; Melissa DeRosa [REDACTED]@exec.ny.gov>; Stephanie Benton [REDACTED]@exec.ny.gov>; Jeffrey Pollock [REDACTED]@globalstrategygroup.com>; Linda A Lacewell (dfs.ny.gov) [REDACTED]@dfs.ny.gov>

**Cc:** Lis Smith [REDACTED]@gmail.com>; Josh Vlasto [REDACTED]@gmail.com>; Judith Mogul [REDACTED]@exec.ny.gov>; Richard Azzopardi [REDACTED]@exec.ny.gov>; Steven Cohen (esd.ny.gov) [REDACTED]@esd.ny.gov>; Mitra Hormozi [REDACTED]@wmhlaw.com>

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

[EXT EMAIL]

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

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

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

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

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

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

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

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**From:** Beth Garvey [REDACTED]@exec.ny.gov]  
**Sent:** 3/14/2021 10:12:29 PM  
**To:** Jeffrey Pollock [REDACTED]@globalstrategygroup.com]; Ajemian, Peter (CHAMBER) [REDACTED]@exec.ny.gov]; DeRosa, Melissa (CHAMBER) [REDACTED]@exec.ny.gov]; Benton, Stephanie (CHAMBER) [REDACTED]@exec.ny.gov]; Lacewell, Linda A (DFS) [REDACTED]@dfs.ny.gov]  
**CC:** Lis Smith [REDACTED]@gmail.com]; Josh Vlasto [REDACTED]@gmail.com]; Mogul, Judith (CHAMBER) [REDACTED]@exec.ny.gov]; Azzopardi, Richard (CHAMBER) [REDACTED]@exec.ny.gov]; Cohen, Steven (ESD) [REDACTED]@esd.ny.gov]; Mitra Hormozi [REDACTED]@wmhlaw.com]  
**Subject:** Re: Priv and Confidential - CURRENT DRAFT

I spoke to melissa earlier I think she agrees we shouldn't give news to this story if there isn't any and this statement keeping it to prior statements can't create new exposure re retaliation- note her tweets re civil suits.

This is safest

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

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**From:** Jeffrey Pollock  
**Sent:** Sunday, March 14, 2021 10:07 PM  
**To:** Peter Ajemian; Beth Garvey; Melissa DeRosa; Stephanie Benton; Linda A Lacewell (dfs.ny.gov)  
**Cc:** Lis Smith; Josh Vlasto; Judith Mogul; Richard Azzopardi; Steven Cohen (esd.ny.gov); Mitra Hormozi  
**Subject:** RE: Priv and Confidential - CURRENT DRAFT

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

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

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EXHIBIT  
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To: Peter Ajemian [REDACTED]@exec.ny.gov]; Judith Mogul [REDACTED]@exec.ny.gov]; Linda A Lacewell (dfs.ny.gov) [REDACTED]@dfs.ny.gov]  
Cc: Richard Azzopardi [REDACTED]@exec.ny.gov]; Melissa DeRosa [REDACTED]@exec.ny.gov]; Lis Smith [REDACTED]@gmail.com]; Jeffrey Pollock [REDACTED]@globalstrategygroup.com]  
From: Beth Garvey[O=NYEC/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=033511A3D505483B95BF6C15C46B05A4-BETH GARVEY]  
Sent: Wed 3/17/2021 7:27:23 PM Eastern Daylight Time  
Subject: RE: privileged / confidential

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Ok

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From: Peter Ajemian [REDACTED]@exec.ny.gov>  
Sent: Wednesday, March 17, 2021 6:25 PM  
To: Beth Garvey [REDACTED]@exec.ny.gov>; Judith Mogul [REDACTED]@exec.ny.gov>; Linda A Lacewell (dfs.ny.gov) [REDACTED]@dfs.ny.gov>  
Cc: Richard Azzopardi [REDACTED]@exec.ny.gov>; Melissa DeRosa [REDACTED]@exec.ny.gov>; Lis Smith [REDACTED]; Jeffrey Pollock [REDACTED]@globalstrategygroup.com>  
Subject: Re: privileged / confidential

Draft / privileged / confidential

Is everyone OK with the below adds that are **bolded and underlined**?

On Mar 17, 2021, at 2:23 PM, Peter Ajemian [REDACTED]@exec.ny.gov> wrote:

Privileged / Confidential

Beth, Judy – can you please loop Mitra?

New Yorker Fact Check

New information added in last hour: on the day that Lindsey Boylan was tweeting back in December allegation of harassment, there was a group of people helping the gov with comms related to this incident. They were planning a call to discuss the tweets and how to respond: Mdr. rich azzopardi, peter ajemian, steve cohen – the group was exchanging the tweets and then a group email was circulated to plan a call - we were on an email planning a call to talk about the tweets. **DISPUTED THIS; DISCUSSING WITH EDITORS**

The point of the call was to discuss how to address the tweets and deal with the situation: several options discussed including a letter that included discussion of Lindsey's reputation and credibility.

This is the letter that was referenced by the times – drafted but never sent

The group decided not to send the letter but realized Lindsey faced complaints in the workplace – she had bullied colleagues including women of color in the workplace – and that those complaints were reflected in her personnel file [Ronan has a primary source (a person involved) who told him this]. **DISPUTED THIS; DISCUSSING WITH EDITORS**

But the decision was made by that group that the file would be shared with reporters.

The person who ended up making the calls to reporters was Rich Bamberger, and that he was calling reporters and telling them to call the governor's office, and then Azzopardi then sent the files to the reporters.

After that, later in the day, the complaints that were in the file ended up in the AP, TU and NYP.

Lindsey tells Ronan that she believes the person who released the files was Melissa.

(her sense is Melissa was involved in the decision and she doesn't know about the level of detail in Ronan's reporting)

Someone told Ronan that Melissa had been involved in leaks like this in the past, and that Rich Azzopardi had been involved in disseminating sensitive material through intermediaries. [no example given; the person who told him this has seen these sensitive materials—NEED TO ASK RONAN]

Statement from Beth Garvey

After Lindsey tweeted, gov's office called people who had worked under Lindsey seeking information.

Mentions WSJ piece from last week.

Lindsey also said she saw the calls as a tactic she in her experience had observed the governor use in other instances to smear and discredit and intimidate them – she views it as part of a history of doing this.

Statement from Azzopardi about the proactive outreach: This wasn't an effort to intimidate – it was to check and inform them that she had been contacting people.

She had several roles in the state government between 2015-2018.

A couple of incidences –

Lindsey recalled a time when Steph had a haircut and gov made fun of her in front of other people and she was crying in response to that.

Stephanie's statement: this is untrue – decency and respect.

Lindsey mentions [REDACTED] – gov talked about him being fat. [REDACTED] declined to comment.

She mentioned a party at pool house at mansion where she saw dartboard w face of BdB – a spox declined to comment on the dartboard.

EXHIBIT  
28

Her first interaction with the governor was after a speech he gave at MSG on Jan 6 2016, and that she felt he was paying an unusual level of attention to her. It was not long after that that her boss Zemsky told her that GAMC had a crush on her. Howard didn't respond to request for comment.

She said over the next two years that the gov repeatedly commented on her appearance and touched her in unprofessional ways. Specifically, he would put his hand on her lower back. He would find a way to touch her in passing such as when getting on or off a plane. And that he frequently stared at her legs.

**ADD: Gov's prior comments that he never touched anyone inappropriately.**

She told her mother at one point that a Cuomo staffer had asked lindsey's boss if she would be at an event that the gov was attending. In 2016.

A spokesman for the gov said the staffer over saw events and it would have been her job to understand who was there make and female.

REDC awards December 2016 – we report that after the awards, an aide to gamc demanded that lindsey go back to ny on a plane w Cuomo instead of staying behind with the staffers who work for her. The aide declined to comment on the matter. Incident with Maria Bartiromo. (the aide is not named)

A spox said the flight arrangements were not a point of contention.

Stephanie emailing lindsey suggesting she look up a woman who people had told lindsey had been romantically linked to governor.

Stephanie wrote in an email; "you could be sisters except your're the better looking etc"

**ADD from Stephanie Benton prior comment on that email: "That was my attempt at banter, not his."**

Albany conventuion center holiday party later in December 2016 – lindsey said that when she saw the governor, she went to another part of the room.

Later that day, Andrew Ball called her and said the governor wanted to see her in his office. Ball declined to comment. She got to the office, gamc showed her things in the office including cigar box which he said was a gift from president Clinton and that he made comments referencing clinton's sexual behavior (not an outright direct comment), and she found that – she felt like the cigar box was a reference to he

She said gamc knew lindsey idolized Hillary, and making any sort of reference or joke about – she felt distressed by the situation around the cigar box.

**ADD: From a spokesperson: "The governor has given that exact tour to staff, visitors and reporters - male and female alike - hundreds of times over the last 11 years."**

The comments about her looks and huis paying attention to her continued through the rest of the time she worked in the office

2017 flight on a private plane in which the gov said to her let's play strip poker" – four Cuomo staffers on the plane denied this interaction occurred (staffers not named)

She said that in 2018 she went to several meetings held on the ground floor of the gov's mansion. And she told ronan that at the conclusion of one of the meetings, as she was making her way to the door, his new puppy started jumping up and down near her. The puppy was a Siberian sheppard malmout mix named Captain.

She reached out to calm him down and backed away. And the gov said, jokingly, if he were a dog, he would "mount" her as well.

She said she remembered being "grossed out" by what he said but shrugged it off.

**ADD: From the Governor: "This did not happen."**

In the summer of 2018, she had a one on one briefing with the governor in his ny office. When she was trying to leave, he blocked her from getting out by moving in front of her. And as she tried to move forward, he kissed her on the lips. She said in no way was it plutonic and she felt mortified.

Cuomo: This did not happen.

She told ronan that at one point after this incident in 2018, MDR called her about a work matter and screamed at her and said, "What the fuck did you do?" Lindsey said "I'm not speaking to you," and hung up. MDR and spox declined to comment on the interaction.

[related to how lindsey reacted and responded to people in the office, as there had been reports about her her behavior – she felt her mental health is deteriorating after all these incidents at that she claimed happen – implication is the things she was experiencing may have caused her to be difficult to her subordinates – bled out into how she interacted with people at work]

Then Ronan talks about the personnel files – The files supposedly say she was a bully to other women including black women. She said that in her more than three years working in the admin, she never had a performance review, and she had never seen these personnel files and was unaware of the incidents that have been reported. She also said that she never saw an HR or personnel file for anyone who worked in the office, much less herself. In her view, there's no real HR function independent of the gov and his closest aides.

She says she tried to quit several times during that summer of 2018 and she eventually resigned in September of 2018.

She said even after she resigned, she still remained publicly supportive of Cuomo because she knew it was important to have his support if she wanted to continued in ny politics.

Lindsey: "you can't leave; if you leave, you're destroyed and there's no other place to go."

She recalled a time she was in the car with gamc and Melissa after a trip – she recalls him "obliterating" someone on the phone. She assumed it was a staffer, but she found out it was a famous reporter. "His main source of power is destroying you [people] in the press." She sees her situation and the files that were sent to reporters as an extension of his power over the press.

[Under 5000 words]

There are pieces of evidence from her:

1. Email that her mother sent following a phone call they had in which (2016) – her mother was responding saying “it sounds very inappropriate what he’s saying to you”
2. Email asking if she would be at event – forward of event – she sent a text saying I wish I could be recognized for my talents not my appearance
3. Email from Stephanie about better looking sister
4. Text from Melissa where she is trying to convince Lindsey to stay at the job (July 2018), and that’s when Lindsey said beginning of 2018 she was trying to quit multiple times (after one of those times, MDR sent her a text asking her to stay
  - a. “I know it was a tough day today. We hope to see you back here tomorrow with the team helping to get things done.” [this appears in the piece]
  - b. No other texts from Melissa

Quotes from people who know Lindsey – quotes about what Lindsey was telling them about her experience in the gov’s office – for example when then the gov was touching her back, she told a friend about that

There are unnamed people in the story saying they observed Lindsey being hostile in the workplace.

--

Charlotte Bennett mentioned

Are there any other accusers mentioned? Mention Anna Rusch – her experience at a wedding reception. No mentions of sixth accuser, Liss or Hinton.

Biaggi – she has no doubt that the gov leaked personnel files and subjected Lindsey to a smear campaign. The gov’s pattern of abusive behavior has always informed and it’s pervasive in the admin. She experienced a culture where people were harassed and retaliated against. The behavior cides the gov and it’s enforced by his aides.

RESPONSES BY END OF DAY OR THIS EVENING.

HOW TO PROCEED - DO WE WANT TO DO A CALL WITH RONAN AND FACT CHECKER?

To: Ronan Farrow[redacted@newyorker.com]; [redacted]@newyorker.com; [redacted]@newyorker.com]; [redacted]@newyorker.com  
[redacted]@newyorker.com]  
From: Peter Ajemian[O=NYEC/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8B61F5B5B1CF43CFAA2249DDBCD01ADC-PETER  
AJEMIAN]  
Sent: Thur 3/18/2021 8:56:43 PM Eastern Daylight Time  
Subject: Re: From Rich Azzopardi

---

In response to the new "mean girls" attack, can you please add -

From a spokesperson: "Melissa is one of the most brilliant, accomplished and hardest working public servants in government. Enough with the sexist tropes."

Original Message  
From: Peter Ajemian  
Sent: Thursday, March 18, 2021 7:26 PM  
To: Ronan Farrow; [redacted]@newyorker.com; [redacted]@newyorker.com  
Subject: From Rich Azzopardi

Please see below from Rich Azzopardi regarding the letter. We will likely have a comment regarding Lindsey's added shot at Melissa about being a "mean girl."  
Along those lines, [redacted], can you please let me know if there are other mentions of Melissa that we didn't discuss yesterday? Thank you.

> On Mar 18, 2021, at 7:17 PM, Richard Azzopardi <[redacted]@exec.ny.gov> wrote:  
>  
> "The first I heard of any letter was this week when contacted by another outlet." -Rich Azzopardi  
>



To: Peter Ajemian [REDACTED]@exec.ny.gov; Richard Azzopardi [REDACTED]@exec.ny.gov; Linda A Lacewell (dfs.ny.gov) [REDACTED]@dfs.ny.gov; Josh Vlasto [REDACTED]@gmail.com  
Cc: Melissa DeRosa [REDACTED]@exec.ny.gov; Christopher Cuomo [REDACTED]@gmail.com; Dani Lever [REDACTED]@gmail.com; Jeffrey Pollock [REDACTED]@globalstrategygroup.com; Lis Smith [REDACTED]@gmail.com; Stephanie Benton [REDACTED]@exec.ny.gov; Steven Cohen (esd.ny.gov) [REDACTED]@esd.ny.gov  
From: Judith Mogul [/O=NYEC/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=5DA2632596FB4016A2FACBD65E5C9CEB-JUDITH MOGUL]  
Sent: Sat 2/27/2021 4:00:49 PM Eastern Standard Time  
Subject: Re: Current Statement

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actual answer should be - but need to clear this - that we will set no limits on the scope of the review and that Judge Jones will determine the appropriate scope of the review

---

**From:** Peter Ajemian  
**Sent:** Saturday, February 27, 2021 3:55 PM  
**To:** Richard Azzopardi; Linda A Lacewell (dfs.ny.gov); Josh Vlasto  
**Cc:** Melissa DeRosa; Christopher Cuomo; Dani Lever; Jeffrey Pollock; Judith Mogul; Lis Smith; Stephanie Benton; Steven Cohen (esd.ny.gov)  
**Subject:** Re: Current Statement

What is the answer to this question?

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

**From:** Richard Azzopardi  
**Sent:** Saturday, February 27, 2021 3:07 PM  
**To:** Linda A Lacewell (dfs.ny.gov); Josh Vlasto  
**Cc:** Melissa DeRosa; Christopher Cuomo; Dani Lever; Jeffrey Pollock; Judith Mogul; Lis Smith; Peter Ajemian; Stephanie Benton; Steven Cohen (esd.ny.gov)  
**Subject:** Re: Current Statement

Maybe we say wideranging review? All I'm saying is that this will be the first followup.

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

**From:** Lacewell, Linda A (DFS)  
**Sent:** Saturday, February 27, 2021 3:04 PM  
**To:** Josh Vlasto  
**Cc:** Melissa DeRosa; Christopher Cuomo; Dani Lever; Jeffrey Pollock; Judith Mogul; Lis Smith; Peter Ajemian; Richard Azzopardi; Stephanie Benton; Steven Cohen (esd.ny.gov)  
**Subject:** Re: Current Statement

Rich; Although in no way required by law, the Governor has requested an independent review and all staff will cooperate in that endeavor. Former Federal Judge Barbara Jones will lead the review.

Sent from my iPhone

On Feb 27, 2021, at 3:02 PM, Josh Vlasto [REDACTED]@gmail.com> wrote:

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

Spoke to MDR  
This clause has to come out

nor did I ever think that I was acting in any way that was inappropriate

On Sat, Feb 27, 2021 at 2:56 PM Melissa DeRosa [REDACTED]@exec.ny.gov> wrote:

Ms. Bennett was a hardworking and valued member of our team during COVID. She has every right to speak out.

When she came to me and opened up about being a sexual assault survivor and how it shaped her and her ongoing efforts to create an organization that empowered her voice to help other survivors, I tried to be supportive and helpful. Ms. Bennett's initial impression was right: I was trying to be a mentor to her. I never made advances toward Ms. Bennett nor did I ever think that I was acting in any way that was inappropriate. The last thing I would ever have wanted was to make her feel any of the things that are being reported.

This situation cannot and should not be resolved in the press so I believe the best way to get to the truth is through a full and thorough outside review and I am directing all state employees to comply with that effort. I will have no further comment until the review has concluded.

---

**From:** Judith Mogul  
**Sent:** Saturday, February 27, 2021 2:49 PM

**EXHIBIT**  
**30**

**To:** Peter Ajemian; Jeffrey Pollock  
**Cc:** Richard Azzopardi; Melissa DeRosa; Linda A Lacewell ([dfs.ny.gov](mailto:dfs.ny.gov)); Lis Smith; Josh Vlasto; Stephanie Benton; Steven Cohen ([esd.ny.gov](mailto:esd.ny.gov)); Christopher Cuomo; Dani Lever  
**Subject:** Re: Current Statement

paternalistic is not a good think it means patronizingly looking down on someone - I think we mean paternal if we are going to say anything like that at all

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**From:** Peter Ajemian  
**Sent:** Saturday, February 27, 2021 2:46 PM  
**To:** Jeffrey Pollock  
**Cc:** Richard Azzopardi; Melissa DeRosa; Linda A Lacewell ([dfs.ny.gov](mailto:dfs.ny.gov)); Lis Smith; Josh Vlasto; Judith Mogul; Stephanie Benton; Steven Cohen ([esd.ny.gov](mailto:esd.ny.gov)); Christopher Cuomo; Dani Lever  
**Subject:** Re: Current Statement

The word "paternal" is NOT in the copy. She referred to him as a being like a "father figure" at one point when she first started working there.

On Feb 27, 2021, at 2:21 PM, Jeffrey Pollock <[\[REDACTED\]@globalstrategygroup.com](mailto:[REDACTED]@globalstrategygroup.com)> wrote:

I retract my last comment about the broader one. But I still think unless paternalistic is in the story we should change. And if it IS in the story I might even put it in quotes? Peter?

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**From:** Richard Azzopardi <[\[REDACTED\]@exec.ny.gov](mailto:[REDACTED]@exec.ny.gov)>  
**Sent:** Saturday, February 27, 2021 2:14 PM  
**To:** Melissa DeRosa <[\[REDACTED\]@exec.ny.gov](mailto:[REDACTED]@exec.ny.gov)>; Linda A Lacewell ([dfs.ny.gov](mailto:dfs.ny.gov)) <[\[REDACTED\]@dfs.ny.gov](mailto:[REDACTED]@dfs.ny.gov)>; Peter Ajemian <[\[REDACTED\]@exec.ny.gov](mailto:[REDACTED]@exec.ny.gov)>  
**Cc:** Lis Smith <[\[REDACTED\]@gmail.com](mailto:[REDACTED]@gmail.com)>; Josh Vlasto <[\[REDACTED\]@gmail.com](mailto:[REDACTED]@gmail.com)>; Jeffrey Pollock <[\[REDACTED\]@globalstrategygroup.com](mailto:[REDACTED]@globalstrategygroup.com)>; Judith Mogul <[\[REDACTED\]@exec.ny.gov](mailto:[REDACTED]@exec.ny.gov)>; Stephanie Benton <[\[REDACTED\]@exec.ny.gov](mailto:[REDACTED]@exec.ny.gov)>; Steven Cohen ([esd.ny.gov](mailto:esd.ny.gov)) <[\[REDACTED\]@esd.ny.gov](mailto:[REDACTED]@esd.ny.gov)>; Christopher Cuomo <[\[REDACTED\]@gmail.com](mailto:[REDACTED]@gmail.com)>; Peter Ajemian <[\[REDACTED\]@exec.ny.gov](mailto:[REDACTED]@exec.ny.gov)>; Dani Lever <[\[REDACTED\]@gmail.com](mailto:[REDACTED]@gmail.com)>  
**Subject:** Re: Current Statement

[EXT EMAIL]

Minor grammatical to next to last sentence.

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

**From:** Melissa DeRosa  
**Sent:** Saturday, February 27, 2021 2:08 PM  
**To:** Linda A Lacewell ([dfs.ny.gov](mailto:dfs.ny.gov)); Peter Ajemian  
**Cc:** Richard Azzopardi; Lis Smith; Josh Vlasto; Jeffrey Pollock; Judith Mogul; Stephanie Benton; Steven Cohen ([esd.ny.gov](mailto:esd.ny.gov)); Christopher Cuomo; Peter Ajemian; Dani Lever  
**Subject:** Current Statement

Statement draft:

Ms. Bennett has every right to speak out. She was a hardworking and valued member of our team during COVID.

When she came to me and opened up about being a sexual assault survivor and how it shaped her and her ongoing efforts to create an organization that empowered her voice to help other survivors, I tried to be supportive and helpful. Ms. Bennett's initial impression was right: I was trying to be paternalistic towards her and help mentor her. I never made advances toward Ms. Bennett nor did I ever think that I was acting in any way that was inappropriate. The last thing I would ever have wanted was to make her feel any of the things that are being reported.

This situation cannot and should not be resolved in the press so I believe the best way to get to the truth is through a full and thorough outside review and I am directing all state employees to comply with that effort. I will have no further comment until the review has concluded.



## COVID-19 Updates

The COVID-19 vaccine is here. It is safe, effective and free. Walk in to get vaccinated at sites across the state. Continue to mask up and stay distant where directed.

GET THE FACTS >



FEBRUARY 27, 2021 | Albany, NY

# Statement From Governor Andrew M. Cuomo

STATEMENT (/KEYWORDS/STATEMENT)

## Statement From Governor Andrew M. Cuomo

"Ms. Bennett was a hardworking and valued member of our team during COVID. She has every right to speak out.

"When she came to me and opened up about being a sexual assault survivor and how it shaped her and her ongoing efforts to create an organization that empowered her voice to help other survivors, I tried to be supportive and helpful. Ms. Bennett's initial impression was right: I was trying to be a mentor to her. I never made advances toward Ms. Bennett nor did I ever intend to act in any way that was inappropriate. The last thing I would ever have wanted was to make her feel any of the things that are being reported.

"This situation cannot and should not be resolved in the press; I believe the best way to get to the truth is through a full and thorough outside review and I am directing all state employees to comply with that effort. I ask all New Yorkers to await the findings of the review so that they know the facts before making any judgements. I will have no further comment until the review has concluded."

### STATEMENT FROM BETH GARVEY, SPECIAL COUNSEL AND SENIOR ADVISOR TO THE GOVERNOR

"Ms. Bennett's concerns were treated with sensitivity and respect and in accordance with applicable law and policy.

"The matter was promptly escalated to special counsel. Ms. Bennett received the transfer she requested to a position in which she had expressed a long-standing interest, and was thoroughly debriefed on the facts which did not include a claim of physical contact or inappropriate sexual conduct. She was consulted regarding the resolution, and expressed satisfaction and appreciation for the way in which it was handled.

"The determination reached based on the information Ms Bennett provided was that no further action was required which was consistent with Ms Bennett's wishes.



"Although in no way required by law, the Governor has requested an independent review and all staff will cooperate in that endeavor. Former Federal Judge Barbara Jones will lead the review."

## Translations

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### Bengali Translation

বাংলা অনুবাদ

([https://www.governor.ny.gov/sites/default/files/atoms/files/02.27.21.rel\\_.STATEMENT](https://www.governor.ny.gov/sites/default/files/atoms/files/02.27.21.rel_.STATEMENT))

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### Chinese Translation

中文翻譯

([https://www.governor.ny.gov/sites/default/files/atoms/files/02.27.21.rel\\_.STATEMENT](https://www.governor.ny.gov/sites/default/files/atoms/files/02.27.21.rel_.STATEMENT))

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### Haitian-Creole Translation

Tradiksyon kreyòl ayisyen

([https://www.governor.ny.gov/sites/default/files/atoms/files/02.27.21.rel\\_.STATEMENT\\_F](https://www.governor.ny.gov/sites/default/files/atoms/files/02.27.21.rel_.STATEMENT_F))

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### Korean Translation

한국어 번역

([https://www.governor.ny.gov/sites/default/files/atoms/files/02.27.21.rel\\_.STATEMENT](https://www.governor.ny.gov/sites/default/files/atoms/files/02.27.21.rel_.STATEMENT))

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### Russian Translation

Перевод на русский язык

([https://www.governor.ny.gov/sites/default/files/atoms/files/02.27.21.rel\\_.STATEMENT](https://www.governor.ny.gov/sites/default/files/atoms/files/02.27.21.rel_.STATEMENT))

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### Spanish Translation

Traducción al español

([https://www.governor.ny.gov/sites/default/files/atoms/files/02.27.21.rel\\_.STATEMENT](https://www.governor.ny.gov/sites/default/files/atoms/files/02.27.21.rel_.STATEMENT))

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## Contact the Governor's Press Office

### Contact us by phone:

Albany: (518) 474 - 8418

New York City: (212) 681 - 4640

### Contact us by email:

[Press.Office@exec.ny.gov](mailto:Press.Office@exec.ny.gov)

**Date:** Saturday, February 27 2021 11:32 AM  
**Subject:** Re: Sorry - most up to date for the 9am  
**From:** Josh Vlasto [REDACTED]@gmail.com>  
**To:** Lis Smith [REDACTED]@gmail.com>;  
Dani Lever [REDACTED]@gmail.com>; Jeffrey Pollock [REDACTED]@globalstrategygroup.com>; Judith Mogul  
[REDACTED]@exec.ny.gov>; Linda A Lacewell (dfs.ny.gov) [REDACTED]@dfs.ny.gov>; Melissa DeRosa  
**CC:** [REDACTED]@exec.ny.gov>; Peter Ajemian [REDACTED]@exec.ny.gov>; Richard Azzopardi  
[REDACTED]@exec.ny.gov>; Stephanie Benton [REDACTED]@exec.ny.gov>; Steven Cohen  
(esd.ny.gov) [REDACTED]@esd.ny.gov>;

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Her meaning the independent counsel

On Sat, Feb 27, 2021 at 11:21 AM Lis Smith [REDACTED]@gmail.com > wrote:  
WY to much I

And who is her team?

On Sat, Feb 27, 2021 at 10:49 AM Josh Vlasto [REDACTED]@gmail.com > wrote:

Recent claims that I made sexual advances toward women in the workplace are untrue.

I have nothing but respect for Ms. Bennet and the work she did for the state. In addition, understanding what she survived previously in her life, I would only want her to feel supported and valued. I never meant to be anything but supportive and constructive and I am sorry and deeply regret that she felt anything otherwise.

I have a different perspective on the dynamics of our interactions however I absolutely respect a woman's right to speak out.

I believe the best way to get to the truth is through a full, thorough and independent investigation to review these matters. We will fully comply with her team on all matters and I am directing all state employees to do the same.

On Sat, Feb 27, 2021 at 10:28 AM Melissa DeRosa [REDACTED]@exec.ny.gov > wrote:

We have nothing but respect for Ms Bennett and the work she did for the state. Understanding what she survived previously in her life, we would only want her to feel supported and valued. The Governor never meant to be anything but supportive and constructive and he is sorry if he in any way aggravated her situation. I have a different perspective on the dynamic presented here and believe the best way to get to the truth is through a full, fact-based and independent investigation by an outside.

EXHIBIT  
32

**From:** Peter Ajemian

**Sent:** Saturday, February 27, 2021 10:22 AM

**To:** Linda A Lacewell ([dfs.ny.gov](mailto:dfs.ny.gov)); Melissa DeRosa

**Cc:** Jeffrey Pollock; Josh Vlasto; Judith Mogul; Lis Smith; Richard Azzopardi; Stephanie Benton; Steven Cohen ([esd.ny.gov](mailto:esd.ny.gov)); Dani Lever

**Subject:** Re: Sorry - most up to date for the 9am

Plus Dani

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

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**From:** Lacewell, Linda A (DFS)

**Sent:** Saturday, February 27, 2021 9:05 AM

**To:** Melissa DeRosa

**Cc:** Jeffrey Pollock; Josh Vlasto; Peter Ajemian; Judith Mogul; Lis Smith; Richard Azzopardi; Stephanie Benton; Steven Cohen ([esd.ny.gov](mailto:esd.ny.gov))

**Subject:** Re: Sorry - most up to date for the 9am

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Another approach from Judy

I respect and appreciate people who dedicate their lives to public service and people who work for the state of NY. The recent claims that I made sexual advances or engaged in sexual harassment – are unfounded and untrue. I have been in public service for years. I believe that the people have a right to know the truth. I am going to be hiring an independent law firm to conduct a review and these and any other related allegations. In the interim, I would request that people refrain from jumping to conclusions and wait until the review is complete.

Sent from my iPhone

On Feb 27, 2021, at 9:04 AM, Melissa DeRosa <[REDACTED]@exec.ny.gov> wrote:

During Ms. Bennett's time in the office, she told the Governor that she had been a victim of sexual assault and then started an organization to promote awareness of sexual assault. She explained that her alma mater had denied her allegations of sexual assault after an investigation and that her family was not fully supportive of her exposing the allegations. Ms. Bennett said she came to the Governor's office because of his work protecting sexual assault victims, especially against universities. The Governor sensed she was still suffering from the trauma and tried to be supportive; as Ms Bennett says, he was 'paternalistic' and they had a 'mentor-mentee' relationship.

At one point Ms Bennett said she would be giving a keynote speech on the issue of sexual assault; the

Governor said he would happy to help her with it. He thought it could be cathartic and encouraged her to own what happened to her and use her voice to proclaim her truth. The Governor tried to be supportive and suggested developing real friendships and healthy loving and positive emotional relationships, exercise and therapy to help her in moving forward. The Governor tried to lighten her spirits. At one point, Ms Bennett said she was thinking of getting a tatoo. The Governor said his opinion was that she would find it was a mistake later in life and that she should at least do it where it would be hidden. Ms. Bennett said she was reviewing the Governor's incoming mail and many women were interested in dating him, and he joked that he was lonely and ready for a girlfriend and that she should screen the mail and find him good candidates.

At one point Ms Bennett approached an aid and requested to be transferred to a position she previously expressed interest in with the health team. The aide then proactively set up a meeting with the Governor's special counsel, a former federal prosecutor, for a formal interview. In that interview, Ms Bennet said she had shared personal information with the Governor which she now regretted and felt uncomfortable. She was asked specifically if she felt the Governor sexually harassed her or if there was any improper contact and she said no. She was asked if she felt there should be any further action to determine if the Governor did anything improper; Ms. Bennett said no. The Governor's intention was consistent with Ms. Bennett's initial impression: he was being 'paternalistic'.

We have nothing but respect for Ms. Bennett and the work she did for the state. Understanding what she survived previously in her life, we would only want her to feel supported and valued. The Governor never meant to be anything but supportive and constructive and he is sorry if he in any way aggravated her situation.

We believe the best way to affirm the truth in this and the matter involving Ms Boylan is through a full, fact-based and independent investigation by an outside counsel.

---

**From:** Melissa DeRosa

**Sent:** Saturday, February 27, 2021 8:32 AM

**To:** Josh Vlasto; Peter Ajemian

**Cc:** Jeffrey Pollock; Judith Mogul; Linda A Lacewell ([dfs.ny.gov](mailto:dfs.ny.gov)); Lis Smith; Richard Azzopardi; Stephanie Benton; Steven Cohen ([esd.ny.gov](mailto:esd.ny.gov))

**Subject:** priv confidential - pls review this draft for the call [REDACTED] is putting on

Sorry read this version -->

Ms. Bennett came to work in the governor's office for a short period of time.

During her time in the office, she told the Governor that she had been a victim of sexual assault and then started an organization to promote awareness of sexual assault. She explained that her alma mater had denied her allegations of sexual assault after an investigation and that her family was not fully supportive of her exposing the allegations. Ms. Bennett said she came to the Governor's office because of his work protecting sexual assault victims, especially against universities. The Governor sensed she was still suffering from the trauma and tried to be supportive as Ms Bennett says, he was 'paternalistic' and they had a 'mentor-mentee' relationship.

At one point Ms Bennett said she would be giving a keynote speech on the issue of sexual assault; the Governor said he would happy to help her with it. He thought it could be cathartic and encouraged her to own what happened to her and use her voice to proclaim her truth. The Governor tried to be supportive and suggested developing real friendships and healthy loving and positive emotional relationships, exercise and therapy to help her in moving forward. The Governor tried to lighten her spirits. At one point, Ms Bennett said she was thinking of getting a tatoo. The Governor said his opinion was that she would find it was a mistake later in life and that she should at least do it where it would be hidden. Ms. Bennett said she was reviewing the Governor's incoming mail and many women were interested in dating him, and he joked that he was lonely and ready for a girlfriend and that she should screen the mail and find him good candidates.

At one point Ms Bennett approached an aid and requested to be transferred to a position she previously expressed interest in with the health team. The aide then proactively set up a meeting with the Governor's special counsel, a former federal prosecutor, for a formal interview. In that interview, Ms Bennet said she had shared personal information with the Governor which she now regretted and felt uncomfortable. She was asked specifically if she felt the Governor harassed her in any way or if there was any improper contact and she said no. She was asked if she felt there should be any further action to determine if the Governor did anything improper; Ms. Bennett said no. Ms. Bennett's initial impression that the governor was being 'paternalistic' and a 'mentor-mentee' was and remained correct. We have nothing but respect for Ms. Bennett and the work she did for the state. Understanding what she survived previously in her life, we would only want her to feel supported and valued.

We believe the best way to get to the truth is through a full, fact-based and independent investigation by an outside counsel, including Ms. Boylan.

---

**From:** Melissa DeRosa  
**Sent:** Saturday, February 27, 2021 8:05 AM  
**To:** Josh Vlasto; Peter Ajemian  
**Cc:** Jeffrey Pollock; Judith Mogul; Linda A Lacewell ([dfs.ny.gov](mailto:dfs.ny.gov)); Lis Smith; Richard Azzopardi; Stephanie Benton; Steven Cohen ([esd.ny.gov](mailto:esd.ny.gov))  
**Subject:** Re: privileged / confidential / draft

A different approach:

Ms. Bennett came to work in the governor's office for a short period of time.

During her time in the office, she told the Governor that she had been a victim of sexual assault and then started an organization to promote awareness of sexual assault. She explained that her alma mater had denied her allegations of sexual assault after an investigation and that her family was not fully supportive of her exposing the allegations. Ms. Bennett said she came to the Governor's office because of his work protecting sexual assault victims, especially against universities. The Governor sensed she was still suffering from the trauma and tried to be supportive as Ms Bennett says, he was 'paternalistic' and they had a 'mentor-mentee' relationship.

At one point Ms Bennett said she would be giving a keynote speech on the issue of sexual assault; the Governor said he would happy to help her with it. He thought it could be cathartic and encouraged her to own what happened to her and use her voice. The Governor tried to be supportive and suggested developing healthy friendships and supportive relationships, exercise and therapy to help her in moving forward. The Governor tried to lighten her spirits. At one point, Ms Bennett said she was thinking of getting a tattoo. The Governor said his opinion was that she would find it was a mistake later in life and that she should at least do it where it would be hidden. Ms. Bennett said she was reviewing the Governor's incoming mail and many women were interested in dating him, and he joked that she should screen the mail and find him good candidates.

At one point Ms Bennett approached an aid and requested to be transferred to a position she previously

expressed interest in with the health team. The aide then proactively set up a meeting with the Governor's special counsel, a former federal prosecutor, for a formal interview. Ms Bennet said she had shared personal information with the Governor which she now regretted and felt uncomfortable. She was asked specifically if she felt the Governor harassed her in any way or if there was any improper contact and she said no. She was asked if she felt there should be any further action to determine if the Governor did anything improper; Ms. Bennett said no. Ms. Bennett's initial impression that the governor was being 'paternalistic' and a 'mentor-mentee' was and remained correct. We have nothing but respect for Ms. Bennett and the work she did for the state. Understanding what she survived previously in her life, we would only want her to feel supported and valued.

We believe the best way to get to the truth is through a full, fact-based and independent investigation by an outside counsel.

---

**From:** Josh Vlasto [REDACTED]@gmail.com >  
**Sent:** Saturday, February 27, 2021 7:58 AM  
**To:** Peter Ajemian  
**Cc:** Jeffrey Pollock; Judith Mogul; Linda A Lacewell ([dfs.ny.gov](mailto:dfs.ny.gov)); Lis Smith; Melissa DeRosa; Richard Azzopardi; Stephanie Benton; Steven Cohen ([esd.ny.gov](mailto:esd.ny.gov))  
**Subject:** Re: privileged / confidential / draft

Seems right to me

Comes in a release I imagine with a sentence or two about the person picked?

On Sat, Feb 27, 2021 at 7:45 AM Peter Ajemian [REDACTED]@exec.ny.gov > wrote:

Relooping Josh

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

---

**From:** Peter Ajemian



**Sent:** Saturday, February 27, 2021 7:18 AM

**To:** Lis Smith

**Cc:** Melissa DeRosa; Judith Mogul; Linda A Lacewell ([dfs.ny.gov](mailto:dfs.ny.gov)); Stephanie Benton; Steven Cohen ([esd.ny.gov](mailto:esd.ny.gov)); Jeffrey Pollock; Richard Azzopardi

**Subject:** Re: privileged / confidential / draft

Sounds right. One tweak in caps for clarity.

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

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**From:** Lis Smith

**Sent:** Saturday, February 27, 2021 12:52 AM

**To:** Peter Ajemian

**Cc:** Melissa DeRosa; Judith Mogul; Linda A Lacewell ([dfs.ny.gov](mailto:dfs.ny.gov)); Stephanie Benton; Steven Cohen ([esd.ny.gov](mailto:esd.ny.gov)); Jeffrey Pollock; Richard Azzopardi

**Subject:** Re: privileged / confidential / draft

removed "complex" and reworked a little:

I have nothing but respect for Charlotte and the work she did for the state. Understanding what she survived PREVIOUSLY IN HER LIFE, I would only want her to feel supported and valued. I believe the best way to get to the truth is through a full, fact-based and independent investigation by an outside counsel who has the expertise to review matters like this one and can recommend remedial steps if warranted.

On Sat, Feb 27, 2021 at 12:39 AM Lis Smith [REDACTED]@gmail.com > wrote:

Additional option:

I have nothing but respect for Charlotte and the work she did for the state. Understanding what Charlotte survived the way I do, I never would have said anything to her that didn't make her feel supported and valued. I believe the best way to get to the truth is through a full, fact-based and independent investigation by an outside counsel who has the expertise to review complex matters like this one and can recommend remedial steps if warranted.

On Fri, Feb 26, 2021 at 11:39 PM Peter Ajemian [REDACTED]@exec.ny.gov > wrote:

Understanding this needs work, here's an initial draft to discuss.

I have nothing but respect for Charlotte and the work she did for the state, and I have tremendous sympathy for what she had been through in her life. I regret and am saddened that she felt anything other than supported and valued at work, as I want nothing but the best for her. I have a different perspective on the dynamic presented here and believe the best way to get to the truth is through a full, fact-based and independent investigation by an outside counsel who has the expertise to review complex matters like this one and can recommend remedial steps if warranted.

On Feb 26, 2021, at 8:40 PM, [REDACTED] [REDACTED]@exec.ny.gov > wrote:

Plus Chris Cuomo

Sent from my iPhone

**Date:** Sunday, February 28 2021 03:20 PM  
**Subject:** Re: statement final  
**From:** Josh Vlasto [REDACTED]@gmail.com>  
**To:** Chris Cuomo [REDACTED]@gmail.com>;  
Dani Lever [REDACTED]@gmail.com>; Jeffrey Pollock [REDACTED]@globalstrategygroup.com>; Linda A Lacewell  
(dfs.ny.gov) [REDACTED]@dfs.ny.gov>; Lis Smith [REDACTED]@gmail.com>; Melissa DeRosa  
**CC:** [REDACTED]@exec.ny.gov>; Peter Ajemian [REDACTED]@exec.ny.gov>; Richard Azzopardi  
<[REDACTED]@exec.ny.gov>; Steven Cohen (esd.ny.gov) [REDACTED]@esd.ny.gov>;

I can't seem to dial back in

C

On Sun, Feb 28, 2021 at 3:13 PM Chris Cuomo [REDACTED]@gmail.com > wrote:

“Questions have been raised about some of my past interactions with people in the office.

I spend most of my life at work and colleagues are often also personal friends. I never intended to offend anyone or cause any harm.

sometimes I am playful and make jokes. You have seen me do it at briefings hundreds of times. My only desire is to add some levity and banter to what is a very serious business.

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. I'm sorry and feel deeply embarrassed about that.

Separately, my office has heard anecdotally that some people have reached out to Ms. Bennett to express displeasure about her coming forward. My message to anyone doing that is you have misjudged what matters to me and my administration and you should stop now - period.”

EXHIBIT

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On Feb 28, 2021, at 3:11 PM, Melissa DeRosa [REDACTED]@exec.ny.gov > wrote:

“Questions have been raised about some of my past interactions with people in the office.

I spend most of my life at work and colleagues are often also personal friends. I never intended to offend anyone or cause any harm.

sometimes I am playful and make jokes. You have seen me do it at briefings hundreds of times. My only desire is to add some levity and banter to what is a very serious business.

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. I'm sorry and feel deeply embarrassed about that.

Separately, my office has heard anecdotally that some people have reached out to Ms. Bennett to express displeasure about her coming forward. My message to anyone doing that is you have misjudged what matters to me and my administration and you should stop now - period.”

---

**From:** Lacewell, Linda A (DFS) [REDACTED]@dfs.ny.gov >

**Sent:** Sunday, February 28, 2021 3:07 PM

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

**Cc:** Peter Ajemian [REDACTED]@exec.ny.gov >; Richard Azzopardi [REDACTED]@exec.ny.gov >; Jeffrey Pollock [REDACTED]@globalstrategygroup.com >; Lis Smith [REDACTED]@gmail.com >; Josh Vlasto [REDACTED]@gmail.com >; Dani Lever [REDACTED]@gmail.com >; Steven Cohen (esd.ny.gov) [REDACTED]@esd.ny.gov >; Chris Cuomo ([REDACTED]@gmail.com) <[REDACTED]@gmail.com >

**Subject:** Re: statement final

I now understand (not know)

Sent from my iPhone

On Feb 28, 2021, at 3:05 PM, Melissa DeRosa <[REDACTED]@exec.ny.gov> wrote:

“Questions have been raised about some of my past interactions with people in the office.

I never intended to offend anyone or cause any harm. I spend most of my life at work and colleagues are often also personal friends.

At work sometimes I think I am being playful and make jokes that I think are funny. I do, on occasion, tease people in what I think is a good natured way. I do it in public and in private. You have seen me do it at briefings hundreds of times. I have teased people about their personal lives, their relationships, about getting married or not getting married. I mean no offense and only attempt to add some levity and banter to what is a very serious business.

I know 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. I acknowledge some of the things I have said have been misinterpreted as an unwanted flirtation. To the extent anyone felt that way, I'm sorry and feel deeply embarrassed about that.

That's why I have asked for an outside, independent review that

looks at all of this. To be clear I never touched anybody and I never propositioned anybody, but these are serious allegations that New Yorkers deserve answers to.

Separately, my office has heard anecdotally that some people have reached out to Ms. Bennett to express displeasure about her coming forward. My message to anyone doing that is you have misjudged what matters to me and my administration and you should stop now - period.”

## COVID-19 Updates

The COVID-19 vaccine is here. It is safe, effective and free. Walk in to get vaccinated at sites across the state. Continue to mask up and stay distant where directed.

GET THE FACTS >



FEBRUARY 28, 2021 | Albany, NY

# Statement from Governor Andrew M. Cuomo

STATEMENT (/KEYWORDS/STATEMENT)

"Questions have been raised about some of my past interactions with people in the office.

"I never intended to offend anyone or cause any harm. I spend most of my life at work and colleagues are often also personal friends.

"At work sometimes I think I am being playful and make jokes that I think are funny. I do, on occasion, tease people in what I think is a good natured way. I do it in public and in private. You have seen me do it at briefings hundreds of times. I have teased people about their personal lives, their relationships, about getting married or not getting married. I mean no offense and only attempt to add some levity and banter to what is a very serious business.

"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. I acknowledge some of the things I have said have been misinterpreted as an unwanted flirtation. To the extent anyone felt that way, I am truly sorry about that.

"To be clear I never inappropriately touched anybody and I never propositioned anybody and I never intended to make anyone feel uncomfortable, but these are allegations that New Yorkers deserve answers to.

"That's why I have asked for an outside, independent review that looks at these allegations.

"Separately, my office has heard anecdotally that some people have reached out to Ms. Bennett to express displeasure about her coming forward. My message to anyone doing that is you have misjudged what matters to me and my administration and you should stop now - period."

## Translations



### Bengali Translation

বাংলা অনুবাদ

([https://www.governor.ny.gov/sites/default/files/atoms/files/02.28.21.reI\\_GOVERNOF](https://www.governor.ny.gov/sites/default/files/atoms/files/02.28.21.reI_GOVERNOF))

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### Chinese Translation

中文翻譯

([https://www.governor.ny.gov/sites/default/files/atoms/files/02.28.21.reI\\_GOVERNOF](https://www.governor.ny.gov/sites/default/files/atoms/files/02.28.21.reI_GOVERNOF))

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### Haitian-Creole Translation

Tradiksyon kreyòl ayisyen

([https://www.governor.ny.gov/sites/default/files/atoms/files/02.28.21.reI\\_GOVERNOF](https://www.governor.ny.gov/sites/default/files/atoms/files/02.28.21.reI_GOVERNOF))

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### Korean Translation

한국어 번역

([https://www.governor.ny.gov/sites/default/files/atoms/files/02.28.21.reI\\_GOVERNOF](https://www.governor.ny.gov/sites/default/files/atoms/files/02.28.21.reI_GOVERNOF))

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### Russian Translation

Перевод на русский язык

([https://www.governor.ny.gov/sites/default/files/atoms/files/02.28.21.reI\\_GOVERNOF](https://www.governor.ny.gov/sites/default/files/atoms/files/02.28.21.reI_GOVERNOF))

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### Spanish Translation

Traducción al español

([https://www.governor.ny.gov/sites/default/files/atoms/files/02.28.21.reI\\_GOVERNOF](https://www.governor.ny.gov/sites/default/files/atoms/files/02.28.21.reI_GOVERNOF))

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## Contact the Governor's Press Office

#### Contact us by phone:

Albany: (518) 474 - 8418

New York City: (212) 681 - 4640

#### Contact us by email:

[Press.Office@exec.ny.gov](mailto:Press.Office@exec.ny.gov)



To: [REDACTED]@exec.ny.gov]  
Cc: Richard Azzopardi [REDACTED]@exec.ny.gov]; Peter Ajemian [REDACTED]@exec.ny.gov]  
From: Bernadette Hogan [REDACTED]@nypost.com]  
Sent: Thur 3/4/2021 4:43:31 PM Eastern Standard Time  
Subject: Re: Re: FROM NYPOST: TU story on Charlotte Bennett complaint

---

That response doesn't answer my questions.  
Why wasn't this complaint handled by GOER in the first place?  
Did the executive chamber break its own rules?

Thanks,

Bernadette

**BERNADETTE HOGAN**  
Albany Reporter, *New York Post*  
LCA - PO Box 7269, New York State Capitol  
Albany, NY 12224  
CELL: [REDACTED]  
[REDACTED]@nypost.com

On Thu, Mar 4, 2021 at 4:38 PM [REDACTED]@exec.ny.gov> wrote:

Here's the response:

*Second, regarding complaints/investigations and related policies, quote from Beth Garvey: "As previously stated, we will not have further comment on this until the AG's review is complete, and we cannot comment on this at this time."*

From: Bernadette Hogan [REDACTED]@nypost.com>  
Sent: Thursday, March 4, 2021 4:39 PM  
To: [REDACTED]@exec.ny.gov>; Richard Azzopardi [REDACTED]@exec.ny.gov>; Peter Ajemian [REDACTED]@exec.ny.gov>  
Subject: Re: Re: FROM NYPOST: TU story on Charlotte Bennett complaint

Is this all off the record or your official response?

If Garvey did not handle the complaint, then what exactly did Ms. Mogul and Ms. DesRosier do?

Did they open a formal investigation?

If not, why - as that goes against state policy? In Governor Cuomo signed an executive order in August 2018 that took effect in December of 2019, which made the Governor's Office of Employee Relations "responsible for conducting all investigations into employment-related discrimination complaints."

Back to the questions I need answers for:

1. What complaint did Ms. Mogul and Ms. DesRosier review?
2. Did either of them open a formal investigation? If so, what were the findings?
3. Was Charlotte Bennett's complaint referred to the Governor's Office of Employee Relations?
4. If yes, was a formal investigation conducted?
5. If yes, what are the results of the investigation?
6. Does the Executive Chamber believe its personnel are not subject to the laws governing other New York State government agencies and offices?

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Thanks,

Bernadette

**BERNADETTE HOGAN**

**Albany Reporter, *New York Post***

LCA - PO Box 7269, New York State Capitol

Albany, NY 12224

CELL: [REDACTED]

[REDACTED]@nypost.com

On Thu, Mar 4, 2021 at 4:27 PM [REDACTED]@exec.ny.gov> wrote:

Hey Bern -- Responding to your questions re: the TU story with a few points below.

First, off the record, I just want to point out (as the original NYT story mentioned), Beth did not "handle" the complaint as you say. As the Times reported, it was Jill DesRosier and Judith Mogul.

Second, regarding complaints/investigations and related policies, **quote from Beth Garvey**: "As previously stated, we will not have further comment on this until the AG's review is complete, and we cannot comment on this at this time."

Third, pointing to Beth's original statement back on Saturday:

"Ms. Bennett's concerns were treated with sensitivity and respect and in accordance with applicable law and policy.

"The matter was promptly escalated to special counsel. Ms. Bennett received the transfer she requested to a position in which she had expressed a long-standing interest, and was thoroughly debriefed on the facts which did not include a claim of physical contact or inappropriate sexual conduct. She was consulted regarding the resolution, and expressed satisfaction and appreciation for the way in which it was handled.

"The determination reached based on the information Ms Bennett provided was that no further action was required which was consistent with Ms Bennett's wishes.

[REDACTED]

---

**From:** Melissa DeRosa [REDACTED]@exec.ny.gov]  
**Sent:** 3/1/2021 4:28:02 PM  
**To:** Lacewell, Linda A (DFS) [REDACTED]@dfs.ny.gov]; Cohen, Steven (ESD) [REDACTED]@esd.ny.gov]  
**CC:** Jeffrey Pollock [REDACTED]@globalstrategygroup.com]; Garvey, Beth (CHAMBER) [REDACTED]@exec.ny.gov]; Ajemian, Peter (CHAMBER) [REDACTED]@exec.ny.gov]; Mogul, Judith (CHAMBER) [REDACTED]@exec.ny.gov]; Josh Vlasto [REDACTED] Dani Lever [REDACTED] Azzopardi, Richard (CHAMBER) [REDACTED]@exec.ny.gov]; Lis Smith [REDACTED]  
**Subject:** Re: privileged & confidential - please see. FW: Comment on 2019 wedding interaction

she and i discussed and think some of this is so ridiculous that treating it all as workplace serious sexual harassment doesnt work -- this is al Franken all over again

The Governor has kissed and hugged and posed for photos with men and women alike at thousands of public events for the last 40 years. If that has offended anyone in anyway, it was not his intention. In this instance, there was a photographer less than 5 feet away in a room filled with hundreds of people where he was performing a wedding ceremony.

---

**From:** Lacewell, Linda A (DFS) [REDACTED]@dfs.ny.gov>  
**Sent:** Monday, March 01, 2021 4:26 PM  
**To:** Steven Cohen (esd.ny.gov); Melissa DeRosa  
**Cc:** Jeffrey Pollock; Beth Garvey; Peter Ajemian; Judith Mogul; Josh Vlasto [REDACTED]; Dani Lever [REDACTED]; Richard Azzopardi; Lis Smith [REDACTED]  
**Subject:** Re: privileged & confidential - please see. FW: Comment on 2019 wedding interaction

You're going to comment on each and every allegation now

Get [Outlook for iOS](#)

---

**From:** Melissa DeRosa [REDACTED]@exec.ny.gov>  
**Sent:** Monday, March 1, 2021 4:25:49 PM  
**To:** Cohen, Steven (ESD) [REDACTED]@esd.ny.gov>; Lacewell, Linda A (DFS) [REDACTED]@dfs.ny.gov>  
**Cc:** Jeffrey Pollock [REDACTED]@globalstrategygroup.com>; Garvey, Beth (CHAMBER) [REDACTED]@exec.ny.gov>; Ajemian, Peter (CHAMBER) [REDACTED]@exec.ny.gov>; Mogul, Judith (CHAMBER) [REDACTED]@exec.ny.gov>; Josh Vlasto [REDACTED]@gmail.com>; Dani Lever [REDACTED]@gmail.com>; Azzopardi, Richard (CHAMBER) [REDACTED]@exec.ny.gov>; Lis Smith [REDACTED]@gmail.com>  
**Subject:** Re: privileged & confidential - please see. FW: Comment on 2019 wedding interaction

I just spoke w lis and she agrees w me

what is the issue?

The Governor has kissed and hugged and posed for photos with men and women alike at thousands of public events for the last 40 years. If that has offended anyone in anyway, it was not his intention. In this

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instance, there was a photographer less than 5 feet away in a room filled with hundreds of people where he was performing a wedding ceremony.

---

**From:** Cohen, Steven (ESD) [REDACTED]@esd.ny.gov>  
**Sent:** Monday, March 01, 2021 4:25 PM  
**To:** Linda A Lacewell (dfs.ny.gov)  
**Cc:** Melissa DeRosa; Jeffrey Pollock; Beth Garvey; Peter Ajemian; Judith Mogul; Josh Vlasto  
Dani Lever [REDACTED]; Richard Azzopardi; Lis Smith [REDACTED]  
**Subject:** Re: privileged & confidential - please see. FW: Comment on 2019 wedding interaction

Agree with No.

On Mar 1, 2021, at 4:23 PM, Lacewell, Linda A (DFS) [REDACTED]@dfs.ny.gov> wrote:

No

Sent from my iPhone

On Mar 1, 2021, at 4:21 PM, Melissa DeRosa [REDACTED]@exec.ny.gov> wrote:

Can we give this?

The Governor has kissed and hugged and posed for photos with men and women alike at thousands of public events for the last 40 years. If that has offended anyone in anyway, it was not his intention. In this instance, there was a photographer less than 5 feet away in a room filled with hundreds of people where he was performing a wedding ceremony.

---

**From:** Jeffrey Pollock [REDACTED]@globalstrategygroup.com>  
**Sent:** Monday, March 01, 2021 4:03 PM  
**To:** Beth Garvey; Peter Ajemian; Melissa DeRosa; Linda A Lacewell (dfs.ny.gov); Judith Mogul; Steven Cohen (esd.ny.gov)  
**Cc:** Josh Vlasto [REDACTED]; Dani Lever [REDACTED]; Richard Azzopardi; Lis Smith [REDACTED]  
**Subject:** RE: privileged & confidential - please see. FW: Comment on 2019 wedding interaction

agreed

---

**From:** Beth Garvey [REDACTED]@exec.ny.gov>  
**Sent:** Monday, March 1, 2021 4:03 PM  
**To:** Peter Ajemian [REDACTED]@exec.ny.gov>; Melissa DeRosa [REDACTED]@exec.ny.gov>; Linda A Lacewell (dfs.ny.gov) <[REDACTED]@dfs.ny.gov>; Judith Mogul [REDACTED]@exec.ny.gov>; Steven Cohen (esd.ny.gov) <[REDACTED]@esd.ny.gov>

Cc: Josh Vlasto [REDACTED]@gmail.com>; Dani Lever [REDACTED]@gmail.com>; Richard Azzopardi [REDACTED]@exec.ny.gov>; Lis Smith [REDACTED]@gmail.com>; Jeffrey Pollock [REDACTED]@globalstrategygroup.com>

Subject: RE: privileged & confidential - please see. FW: Comment on 2019 wedding interaction

[EXT EMAIL]

I think we need to lean in to – we have an ongoing review now, a referral has been made, no further comment on this or related matters.

---

From: Peter Ajemian [REDACTED]@exec.ny.gov>

Sent: Monday, March 1, 2021 4:00 PM

To: Melissa DeRosa <[REDACTED]@exec.ny.gov>; Linda A Lacewell (dfs.ny.gov) <[REDACTED]@dfs.ny.gov>; Judith Mogul [REDACTED]@exec.ny.gov>; Beth Garvey [REDACTED]@exec.ny.gov>; Steven Cohen (esd.ny.gov) [REDACTED]@esd.ny.gov>

Cc: Josh Vlasto [REDACTED]@gmail.com>; Dani Lever [REDACTED]@gmail.com>; Richard Azzopardi [REDACTED]@exec.ny.gov>; Lis Smith [REDACTED]@gmail.com>; 'Jefrey Pollock' [REDACTED]@globalstrategygroup.com>

Subject: privileged & confidential - please see. FW: Comment on 2019 wedding interaction

I think we have to refer to yesterday's statement.

From: Jesse McKinley <[REDACTED]@nytimes.com>

Sent: Monday, March 1, 2021 3:53 PM

To: Richard Azzopardi [REDACTED]@exec.ny.gov>; Peter Ajemian [REDACTED]@exec.ny.gov>

Subject: Comment on 2019 wedding interaction

Rich, Peter,

Working on an article with Matt Flegenheimer, who interviewed the main subject, that involves an accusation by a 33-year-old woman, who says that the governor touched her inappropriately at a 2019 wedding (Gareth's, though he is not mentioned), and tried to kiss her even after she had conveyed her discomfort.

The woman, Anna Ruch, is on the record. She said in an interview that the governor put his hand on her bare lower back and after she removed it, the governor asked if he could kiss her, placing his palms on her face against her wishes and drawing closer as she pulled her head away. He then kissed her on the cheek.

There are photos of this moment, some of which are bouncing around Instagram.

I'll reflect the governor's previous comments on the Bennett/Boylan accusations, but can, of course, include any additional comment.

Jesse

--

Jesse McKinley  
New York Times  
Bureau Chief  
Albany

[REDACTED]  
C: [REDACTED]  
Twitter: @jessemckinley  
Skype: [REDACTED]  
Instagram: jessemckinley70

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To: Brittain, Amy [REDACTED]@washpost.com]  
Cc: Peter Ajemian [REDACTED]@exec.ny.gov]  
From: Richard Azzopardi [/O=NYEC/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=RAZZOPARTI]  
Sent: Sat 3/6/2021 6:49:14 PM Eastern Standard Time  
Subject: Re: Washington Post- request for comment (on deadline)

---

Seating in meetings at HUD was assigned.

Yes the governor kisses people --- men and women --- on the cheek --- it is his usual custom. (here's his quote from Wednesday. "You know, my usual custom is to kiss and to hug and make that gesture. I understand that sensitivities have changed and behavior has changed, and I get it. And I'm going to learn from it..")

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

**From:** Brittain, Amy  
**Sent:** Saturday, March 6, 2021 6:46 PM  
**To:** Richard Azzopardi  
**Cc:** Peter Ajemian  
**Subject:** Re: Washington Post- request for comment (on deadline)

Yes we are.

Sent from my iPhone

On Mar 6, 2021, at 6:41 PM, Richard Azzopardi [REDACTED]@exec.ny.gov> wrote:

Are you using the comments from Wednesday saying that if he ever caused anyone pain he's sorry?

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

**From:** Brittain, Amy  
**Sent:** Saturday, March 6, 2021 6:27 PM  
**To:** Richard Azzopardi  
**Cc:** Peter Ajemian  
**Subject:** Re: Washington Post- request for comment (on deadline)

Will add. Thank you.

Sent from my iPhone

On Mar 6, 2021, at 6:26 PM, Richard Azzopardi [REDACTED]@exec.ny.gov> wrote:

Re Ron Kim. I heard that call and went on record. Please include

<https://www.governor.ny.gov/news/statement-senior-advisor-governor-rich-azzopardi-0> [governor.ny.gov]

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

**From:** Richard Azzopardi  
**Sent:** Saturday, March 6, 2021 6:22 PM  
**To:** Brittain, Amy  
**Cc:** Peter Ajemian  
**Subject:** Re: Washington Post- request for comment (on deadline)

Why are we just hearing about this now??

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

**From:** Brittain, Amy  
**Sent:** Saturday, March 6, 2021 6:06 PM  
**To:** Richard Azzopardi  
**Cc:** Peter Ajemian  
**Subject:** RE: Washington Post- request for comment (on deadline)

Hi Rich,  
We have worked in these statements into the draft. Thank you for sending.



For awareness, wanted to flag a few other anecdotes that are in the story. Some (Feiner and Kim) are involving situations that have been reported previously, but please let me know if Gov. Cuomo would like to respond to any of these points. Happy to add in responses but would need them ASAP- within an hour or so.

- A HUD political appointee who worked closely with Cuomo told The Post that during meetings, staffers avoided the seats next to him, as though physical distance would somehow protect them from his wrath. She recalled that she witnessed women dissolve into tears and one man's face turn beet red after Cuomo dressed them down. "People were terrified of him," the former appointee said. "You couldn't forget it. Anyone who tells you they don't remember is not telling the truth. Everybody got their turn, including me."
- The accounts of such behavior by Cuomo stretch back decades. Paul Feiner, now the town supervisor in Greenburgh, N.Y., said that when he was Westchester County legislator in the late 1980s, he had a run-in with Cuomo about a transitional housing project that Cuomo wanted to build in the wealthy enclave. Feiner had proposed downsizing the project. He said Cuomo, who then ran a nonprofit development organization, called him and said: "I'm going to destroy your career and break every bone in your body." Feiner said he ended up voting for the full project.
- Bennett's attorney, Debra Katz, noted that Bennett's experience came several years after Cuomo heralded legislative changes in New York - following the height of the #MeToo movement - related to sexual harassment law. "He knows exactly what is against the law and should be done, and he violated it with impunity," she said.
- A high-ranking HUD political appointee recalled a 2000 incident she characterized as so "inappropriate" that it has bothered her for more than two decades. She had only been on the job for about three weeks when she had a meeting scheduled with Cuomo and an official from the Treasury Department. She and the Treasury official were already at the conference table when Cuomo entered the room. She stood to greet him, and she recalled Cuomo walking over - to hug her, then kiss her on the cheek. "I remember being to this day mortified that he had done this to me in front of this official," the woman recalled. After the meeting ended and Cuomo left, the Treasury official turned to ask her how long she and Cuomo had been friends. She responded

that she had just started the job. The woman said she did not consider the kiss sexual and did not feel Cuomo was coming on to her. Instead, she said she felt the move was "more like a power trip" designed to establish himself as dominant in front of the Treasury official.

"I was so embarrassed, because of course I felt like he was thinking, 'She was just brought on to be a squeeze,'" she said. "It completely diminished me, of course, in the eyes of this person. I have no doubt about that."

- New York State Assemblyman Ron Kim (D) said he was on the receiving end of Cuomo's temper last month after he gave a news outlet a statement criticizing the administration's handling of nursing home deaths linked to the coronavirus pandemic. Kim said he was getting his young daughters ready for bath time when he got a call on his cellphone; it was an operator saying the governor was on the line.

"Mr. Kim, are you an honorable man?" was the first thing Cuomo said, Kim said. During a 10-minute call, the governor threatened

to destroy his career and reputation if he did not immediately issue a statement walking back his criticism, he recounted. Kim said Cuomo was yelling so loudly that his wife could hear the governor through the phone and began shaking and crying.

After Kim went public with his account of the call, Cuomo attacked Kim at a news conference, accusing him of improperly soliciting campaign donations.

"I think it's all one interlinked pattern where he feels untouchable," Kim said. "Whether it's verbal or physical abuse, or threatening lawmakers or journalists for doing their jobs, it's come to a level where it's so normalized that he doesn't think twice about behaving that way."

---

**From:** Richard Azzopardi [REDACTED]@exec.ny.gov>  
**Sent:** Saturday, March 6, 2021 4:29 PM  
**To:** Brittain, Amy [REDACTED]@washpost.com>  
**Cc:** Peter Ajemian [REDACTED]@exec.ny.gov>  
**Subject:** RE: Washington Post- request for comment (on deadline)

CAUTION: EXTERNAL SENDER

From Peter Ajemian, Director of Communications for the Governor:

Global about work environment

"The people of this state elected the Governor to represent them four times during the last 14 years and they know he works day and night for them. There is no secret these are tough jobs, and the work is demanding, but we have a top tier team with many employees who have been here for years, and many others who have left and returned. The Governor is direct with employees if their work is sub-par because the people of New York deserve nothing short of excellence. "

Re Karen Hinton "This did not happen. Karen Hinton is a known antagonist of the Governor's who is attempting to take advantage of this moment to score cheap points with made up allegations from 21 years ago. All women have the right to come forward and tell their story -- however, it's also the responsibility of the press to consider self-motivation. This is reckless."



## Work environment for women

aides pointed out that a majority of senior aides, including secretary, ops-director, counsel, etc are women, many of whom have worked their way up from other positions and were promoted.

Re: language male staffers attributed to the governor: From Rich Azzopardi, Senior advisor to the Governor: "I've been here more than eight years and I have never heard him use coarse language like that."

---

**From:** Brittain, Amy <[REDACTED]@washpost.com>  
**Sent:** Saturday, March 6, 2021 4:27 PM  
**To:** Richard Azzopardi <[REDACTED]@exec.ny.gov>  
**Subject:** RE: Washington Post- request for comment (on deadline)

Hi Rich,

I told this to Melissa but we need Gov. Cuomo's comment by 4:30.

Thank you,  
Amy

---

**From:** Brittain, Amy  
**Sent:** Saturday, March 6, 2021 3:05 PM  
**To:** [REDACTED]@exec.ny.gov  
**Subject:** RE: Washington Post- request for comment (on deadline)

Hi Rich,

Just wondering when we can expect a response.  
Thanks,  
Amy

---

**From:** Brittain, Amy  
**Sent:** Friday, March 5, 2021 7:03 PM  
[REDACTED]@exec.ny.gov  
**Subject:** Washington Post- request for comment (on deadline)

Hi Rich,

I'm working with my colleague Josh Dawsey on a piece related to the workplace environment under Andrew Cuomo. We'd welcome the opportunity to interview Gov. Cuomo and to speak to aides close to him who may want to share their own accounts of what it is like to work for him.

Specifically, we plan to report the following:

- Karen Hinton, who worked for Cuomo at HUD, alleges that he summoned her to his dimly lit hotel room and physically embraced her following a work event in 2000, when Cuomo led the U.S. Department of Housing and Urban Development. Hinton says that she pulled away from Cuomo but he pulled her back toward his body, holding her before she broke away and left the room.
- Hinton has discussed the allegation in detail, saying that it happened after she left her fulltime job with the agency, when she was working as a consultant for HUD. She said the trip was to California, where she worked with the governor to help arrange press coverage on his media tour.
- Hinton said there was a "power dynamic" at play even though she was a consultant at the time, not an employee. "It was the same to me," she said, adding that was she concerned about the "the personal and professional problems that could have been created." She said she described his move as a "power play" for "manipulation and control."
- Hinton has said that she and Cuomo never discussed the incident after she left his room that night.
- Two male aides who worked for Cuomo over the course of his career say that he berated them with explicit language: sometimes calling them "pussies" and sometimes saying "you have no balls," among other comments.
- Two women, both of whom worked in the governor's office several years ago as young staffers, says that Cuomo quizzed them about their dating lives. They have said they did not view the encounters as propositions but rather as part of an office culture they believed was degrading to young women.
- An additional woman has said that during a meeting with Gov. Cuomo, he insinuated that his male staffer should date her. She said that it was part of a larger pattern of a hostile workplace — defined by blame cast upon others, angry outbursts and a pattern of undermining colleagues — that left her with crippling anxiety and feelings of questioning her self worth.
- Altogether, over 20 former Cuomo staffers have told us in interviews that Cuomo fostered a hostile workplace culture in which he makes searing verbal attacks on subordinates. Some said he seemed to delight in humiliating his employees, particularly in group meetings. Most said they still fear his wrath and his power to destroy careers.
- We are also planning on including comments from other staffers who say they never witnessed abusive behavior.

We plan to include some of Gov. Cuomo's remarks from his Wednesday press conference, and we would welcome the chance to include his detailed responses to these new allegations. Our deadline is 1 p.m. tomorrow.

I'm at [REDACTED] if you have any questions concerning this request.

Best,  
Amy

Amy Brittain  
Reporter  
The Washington Post  
[REDACTED] (cell)  
[REDACTED]@washpost.com

---

**Sent:** Saturday, March 6, 2021 2:01 PM  
**To:** Melissa DeRosa [REDACTED]; Rich Azzopardi [REDACTED]  
**Subject:** CHAT - 03180 - 2021/03/06  
**Attachments:** Screenshot 2021-03-06 at 11.21.11 AM.png; Screenshot 2021-03-06 at 11.34.48 AM.png; Screenshot 2021-03-06 at 12.11.52 PM.jpeg; [REDACTED].vcf; [REDACTED].1.vcf

**Rich Azzopardi**  
3/6/2021 2:00 PM

“Palace intrigue aside, there’s a job to be done and New Yorkers elected the Governor to do it, which is why he has been focused on getting as many vaccines in arms as possible, making sure New York is getting its fair share in the Washington relief package and working on a state budget that is due in three weeks.”

**Rich Azzopardi**  
3/6/2021 2:21 PM

“Palace intrigue aside, there’s a job to be done and New Yorkers elected the Governor to do it, which is why he has been focused on getting as many vaccines in arms as possible, making sure New York is getting its fair share in the Washington’s COVID relief package and working on a state budget that is due in three weeks.”

**Melissa DeRosa**  
3/6/2021 3:14 PM

Yes good

**Rich Azzopardi**  
3/6/2021 3:16 PM

K

**Melissa DeRosa**  
3/6/2021 3:44 PM

**Rich Azzopardi**  
3/6/2021 4:21 PM

11:21 ↗

All

Missed

# Recents



Washington, DC

**Melissa DeRosa**

mobile



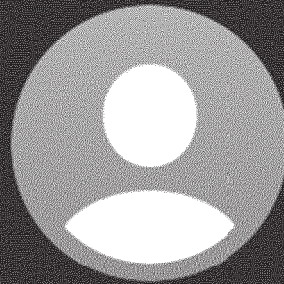
Washington, DC

**Rich Azzopardi**  
3/6/2021 4:35 PM

11:34 ↗



108



iMessage  
Today 11:04 AM

Can you call me  
something

Called RG and she did not pick  
up. Left a message. Also saw  
that my colleague tried her  
earlier this week with no

**Melissa DeRosa**  
3/6/2021 5:07 PM

They spoke

**Rich Azzopardi**  
3/6/2021 5:07 PM

Kk

**Melissa DeRosa**  
3/6/2021 5:10 PM

ask her to call [REDACTED]

**Rich Azzopardi**  
3/6/2021 5:10 PM

Another hid person?

**Rich Azzopardi**  
3/6/2021 5:10 PM

Hud

**Melissa DeRosa**  
3/6/2021 5:11 PM

Yes

**Rich Azzopardi**  
3/6/2021 5:11 PM

K

**Melissa DeRosa**  
3/6/2021 5:12 PM

During the second Clinton adm  
served as Chief of Staff of the I  
Department of Housing and Ur  
During that presidency, Cowan  
Advisor to Secretary Andrew M  
Acting Assistant Secretary for F  
Secretary Henry Cisneros.<sup>[6]</sup>

**Rich Azzopardi**  
3/6/2021 5:15 PM

Gov called the editor?

**Melissa DeRosa**  
3/6/2021 8:11 PM

Text

**Melissa DeRosa**  
3/6/2021 8:11 PM

I'm on w lis



**Melissa DeRosa**  
3/6/2021 8:12 PM

Rich!

**Melissa DeRosa**  
3/6/2021 8:12 PM

What is it

**Melissa DeRosa**  
3/6/2021 8:12 PM

Is something wrong

**Rich Azzopardi**  
3/6/2021 8:13 PM

Jimmy reached out. Hostel workplace complaint from Anna lis. Not harassment but now thinks gov's actions are inappropriate.

**Melissa DeRosa**  
3/6/2021 8:13 PM

Who?

**Melissa DeRosa**  
3/6/2021 8:14 PM

I've never heard of this person

**Rich Azzopardi**  
3/6/2021 8:14 PM

Gov Used to pay her attention. Asked if she had a boyfriend.

**Rich Azzopardi**  
3/6/2021 8:14 PM

Kissed her hand once when she got up from her desk.

**Rich Azzopardi**  
3/6/2021 8:14 PM

Hand on the small of her back during a reception

**Rich Azzopardi**  
3/6/2021 8:14 PM

To take a photo

**Melissa DeRosa**  
3/6/2021 8:14 PM

Did she make a complaint?

**Rich Azzopardi**  
3/6/2021 8:15 PM

Didn't mind then now thinks it was a

**Melissa DeRosa**  
3/6/2021 8:15 PM

Or she's saying this now?

**Rich Azzopardi**  
3/6/2021 8:15 PM

Now

**Rich Azzopardi**  
3/6/2021 8:15 PM

Didn't mind then now thinks it was a hostile work Environment

**Rich Azzopardi**  
3/6/2021 8:15 PM

Repeats the heels thing

**Rich Azzopardi**  
3/6/2021 8:16 PM

And didn't think Wednesday was convicting. It set her off

**Rich Azzopardi**  
3/6/2021 8:16 PM

I feel like a lot of this the gov addressed

**Rich Azzopardi**  
3/6/2021 8:16 PM

Never thought she was being propositioned

**Rich Azzopardi**  
3/6/2021 8:17 PM

Then it now

**Rich Azzopardi**  
3/6/2021 8:17 PM

Or

**Rich Azzopardi**  
3/6/2021 8:17 PM

I came to the office. I figured you'd be here

**Melissa DeRosa**  
3/6/2021 9:12 PM

430 deadline

**From:** Cohen, Steven (ESD [REDACTED]) @esd.ny.gov  
**Subject:** Re: Privileged  
**Date:** March 10, 2021 at 6:26 PM  
**To:** DeRosa, Melissa (CHAMBER) [REDACTED]@exec.ny.gov  
**Cc:** Benton, Stephanie (CHAMBER) [REDACTED]@exec.ny.gov, Azzopardi, Richard (CHAMBER) [REDACTED]@exec.ny.gov, Garvey, Beth (CHAMBER) [REDACTED]@exec.ny.gov



Preferred version.

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 investigation, but I am confident in the result of the Attorney General's report.

On Mar 10, 2021, at 6:15 PM, Melissa DeRosa [REDACTED]@exec.ny.gov> wrote:

It has to say untrue or false.

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

**From:** Cohen, Steven (ESD)  
**Sent:** Wednesday, March 10, 2021 6:11 PM  
**To:** Stephanie Benton  
**Cc:** Richard Azzopardi; Melissa DeRosa; Beth Garvey  
**Subject:** Re: Privileged

Take out completely untrue. Rich A version.

On Mar 10, 2021, at 5:57 PM, Stephanie Benton [REDACTED]@exec.ny.gov> wrote:

As I said yesterday, I have never done anything like this. The details of this report are gut-wrenching and completely untrue. I am not allowed to defend myself publicly because of the review. But I am confident in the result of the Attorney General's report.

IMPORTANT: This e-mail message and any attachments contain information intended for the exclusive use of the individual(s) or entity to whom it is addressed and may contain information that is proprietary, privileged, confidential and/or exempt from disclosure under applicable law. If you are not the intended recipient, you are hereby notified that any viewing, copying, disclosure or distribution of this information may be subject to legal restriction or sanction. Please immediately notify the sender by electronic mail or notify the System Administrator by telephone [REDACTED] or e-mail ([REDACTED]@esd.ny.gov) and delete the message. Thank you.



---

**Sent:** Thursday, March 11, 2021 1:48 PM  
**To:** Melissa DeRosa [REDACTED]; Peter Ajemien [REDACTED]; Beth Garvey <+[REDACTED]>; Josh Vlasto [REDACTED]; Lis Smith [REDACTED]; Rich Azzopardi [REDACTED]  
**Subject:** CHAT - 00161 - 2021/03/11

**Rich Azzopardi**  
3/11/2021 1:47 PM

I heard from a person familiar that Beth called the Albany Police yesterday and pushed them to open a criminal investigation into the alleged incident at the manner. Feel very confident in the source and am writing a story. Please call.

**Beth Garvey**  
3/11/2021 1:51 PM

“pushed” not accurate but as required by our policies and protocols the incident was reported to law enforcement and they were referred to complainants attorney for details.

**Melissa DeRosa**  
3/11/2021 2:03 PM

Routine alert following state mandated procedures

**Melissa DeRosa**  
3/11/2021 2:04 PM

Following standard procedure doing what policy requires us to do



---

**From:** Rich Azzopardi [REDACTED]@gmail.com >  
**Sent:** Thursday, March 11, 2021 12:42 PM  
**To:** Richard Azzopardi  
**Subject:** From Beth Garvey Acting Counsel to the Governor

“As a matter of state policy when allegations of physical contact are made, the agency informs the complainant that they should contact their local police department. If they decline, the agency has an obligation to reach out themselves and inform the department of the allegation.

In this case the person is represented by counsel and when counsel confirmed the client did not want to make a report, the state notified the police department and gave them the attorney’s information.”

--  
Rich Azzopardi  
(c) [REDACTED]



9:50



Rapid response/Priv and Confidential >

twitter.com

LS

Read comments from lawyer number 6

said the attorney for the woman who has accused Cuomo of groping her. "It's not appropriate, and obviously we're concerned with the ramifications and the effect on witnesses and the quest for the truth."

He characterized it as a "shadow investigation."

The attorney, whose client has not filed a formal complaint against Cuomo, asked that his name be withheld out of concern that revealing it would tend to reveal her identity to the general public. She remains employed in the governor's office. Her allegations were reported to Cuomo's

LS

senior aides on March 8 by at least one of her colleagues.

Richard Azzopardi

RA

I'm dealing with this

Lis Smith

This needs to stop immediately.  
@TishJames @CarlHeastie

COHEN000540



iMessage



EXHIBIT

42

9:50



Rapid response/Priv and Confidential >

Richard Azzopardi

RA I'm dealing with this

Lis Smith

This needs to stop immediately.  
@TishJames @CarlHeastie  
<https://t.co/VV58r8kTzg>

LS  **Assemblyman Mike Lawler**  
twitter.com

Wed, Mar 17, 9:24 PM



Stephanie Benton added Beth Garvey to the conversation.

Wed, Mar 17, 9:24 PM

Stephanie Benton added Judith L. Mogul to the conversation.

Stephanie Benton

Pls dial in

SB   


Wed, Mar 17, 11:19 PM

Melissa DeRosa



iMessage

COHEN000541





9:51



Rapid response/Priv and Confidential >

Wed, Mar 17, 11:19 PM

Melissa DeRosa



**Cuomo's dinner date with The New York Times**

politico.com

MD

Thu, Mar 18, 2:43 PM

Lis Smith

LS

What's the latest

Peter Ajemian

Spoke to editor an hour ago and relayed our concerns. He's taking it back to the team and will call me

PA

Thu, Mar 18, 5:05 PM

Lis Smith

LS

What's the spin on the q poll

COHEN00542



iMessage



9:51



Rapid response/Priv and Confidential >

Peter Ajemian

Spoke to editor an hour ago and relayed our concerns. He's taking it back to the team and will call me

PA

Thu, Mar 18, 5:05 PM

Lis Smith

LS

What's the spin on the q poll

Melissa DeRosa

74% of NY'ers say investigation

MD

Disagree affirmatively w politicians saying resign

MD

54% say should not be impeached or removed

Jefrey Pollock

JP

That's the thing to stress

Richard Azzopardi

RA

And obviously strong support in the AA community

COHEN000543



iMessage



9:52



Rapid response/Priv and Confidential >



### Analysis: Cuomo's 3-Part Survival Plan

ny1.com

RA

Thu, Mar 18, 7:06 PM

Lis Smith

LS

FYI- reporters at times def talking about Ronan story

Melissa DeRosa

heir March 4 the poll had a sample that was 47% Democratic , 16% Republican and 29% Independent Whereas the sample for the March 18th poll was 9% Dem, 23% Republican and 28% Independent. Given the sharp differences in partisan strength and the derivatively sharply different support levels for Cuomo on the questions in the two polls, one of the two Quinnipiac samples is inaccurate. Which one?

MD

Linda Lacewell



iMessage



9:52



Rapid response/Priv and Confidential >

Melissa DeRosa

heir March 4 the poll had a sample that was 47% Democratic , 16% Republican and 29% Independent Whereas the sample for the March 18th poll was 9% Dem, 23% Republican and 28% Independent. Given the sharp differences in partisan strength and the derivatively sharply different support levels for Cuomo on the questions in the two polls, one of the two Quinnipiac samples is inaccurate. Which one?

MD

Linda Lacewell



**Opinion | Andrew Cuomo Plots His Survival**

wsj.com

LL

Thu, Mar 18, 9:20 PM

Jefrey Pollock

March 4 D to R ratio is 2.9 (47 to 16)  
March 18 D to R ratio is 1.7 (39 to 23)  
Our last poll was 1.8 (41 to 23 without leaners which is the



iMessage

COHEN000545



9:52



Rapid response/Priv and Confidential >

Jeffrey Pollock

March 4 D to R ratio is 2.9 (47 to 16)  
March 18 D to R ratio is 1.7 (39 to 23)  
Our last poll was 1.8 (41 to 23 without leaners which is the apples to apples comparison... with leaners it was 52-32 at 1.6)

So the March 18 poll looks more correct though they have such a high % of independents/other in their polls because they don't push. So as important as the D to R ratio is whether the independent/other sample they got leans D or R. But that is unknowable

JP

Lis Smith

LS

Ronan on gma tomorrow

You might wanna reach out to them

With lawyers blessing



iMessage

COHEN000546



9:53



Rapid response/Priv and Confidential >

LS

To background them

Melissa DeRosa

MD

Do we have any sense of slant?

Lis Smith

Melissa, have yo I been in a coma the last 4 weeks

LS

I think we all know the slant

LS

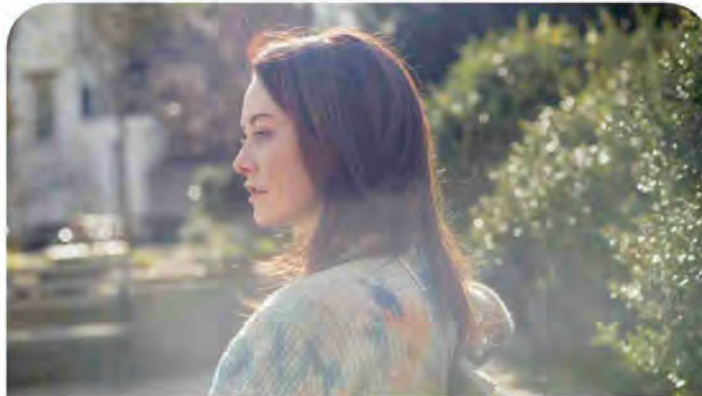
Are you guys refreshing the site

Melissa DeRosa

MD

Yes

Peter Ajemian



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

[newyorker.com](http://newyorker.com)

PA

COHEN000547



iMessage



9:53



Rapid response/Priv and Confidential >

Lis Smith

Holy shit

LS

That's it



I do think we all need to recognize peters good work on this story

LS

Judith L. Mogul

JM

Amen to that

Lis Smith

It was not easy, but Peter you handled this very very well

LS

Richard Azzopardi



RA

Peter Ajemian

It was you brilliant and supportive people. Thank you.

PA



Linda Lacewell

Class act Peter



iMessage

COHEN000548



9:53



Rapid response/Priv and Confidential >

Peter Ajemian



PA

It was you brilliant and supportive people. Thank you.

Linda Lacewell

LL

Class act Peter

Lis Smith

LS

Getting a lot of weak sauce

CAN someone send the text of this story to me in an email?

ASAP

Impt

LS

Hello?

Peter Ajemian

PA

One sec

Lis Smith

A lot of people focusing on the BDB dartboard

Which....I mentioned would be a good thing on the call



iMessage

COHEN000549





9:54



Rapid response/Priv and Confidential >

Which....I mentioned would be a good thing on the call

LS

Everyone saying total nothing

Jefrey Pollock

Just not interesting

JP

Someone's going to pick up on the captain thing

Lis Smith

LS

Of course they will

Melissa DeRosa

MD

The NYT rumor not in

Lis Smith

LS

Yup



Andrew Cuomo reportedly

9:54



Rapid response/Priv and Confidential >



Andrew Cuomo reportedly made a dartboard of nemesis Bill de Blasio for entertainment at a pool party at the governor's mansion <https://t.co/Naj164L4DI>



**The Daily Beast**

twitter.com

LS

Just patting myself on the back here

Jefrey Pollock

JP

Ok my read is that it's largely a nothing burger. But it does serve to do what he wanted which is to make her the victim and legitimize her as the first to break the wall.

Peter Ajemian

PA

Agree.

Richard Azzopardi



COHEN000551

9:54



Rapid response/Priv and Confidential >

Richard Azzopardi



A 4 hour banner in NYC is  
payed for, now donate for a 2  
hour banner in Albany too!! Link  
includes info for Saturday's  
support drive in Albany, come  
one come all!

@RichAzzopardi  
@melissadderosa  
@NYGovCuomo  
@SoupandtheCity  
@Italians4Cuomo  
@AllYouNeedisGov

COHEN000552

9:56



Rapid response/Priv and Confidential >

@Italians4Cuomo  
@AllYouNeedisGov

<https://t.co/P7DHtXxh0F>



 **Annalogue75**  
twitter.com

Peter Ajemian



GMA producer doesn't think there are notable revelations

Fri, Mar 19, 12:11 AM

Lis Smith

Is George interviewing?



Or who?

Fri, Mar 19, 7:52 AM

Richard Azzopardi



NEW: In Feb., @luisferre and I



iMessage

COHEN000553



9:57



Rapid response/Priv and Confidential >



NEW: In Feb., @luisferre and I reported that @NYGovCuomo threatened to liken an adversary a "child rapist" if he compared him to a Republican.

The Gov. denied it. We knew it to be true.

Now, listen to the tape (17:20):

<https://t.co/BWFCACs1Y>

2/22: <https://t.co/IFI5BOeXWT>



**Jesse McKinley**

twitter.com

Lis Smith



How was gma

Linda Lacewell



@RonanFarrow @NewYorker  
Also, I just read the article. It's



iMessage

COHEN000554



9:57



< 27



Rapid response/Priv and Confidential >

LS How was gma

Linda Lacewell



@RonanFarrow @NewYorker  
Also, I just read the article. It's long and yet there's nothing there. Amazing how @NewYorker sees a few \*white\* women raising concerns and RUSHES to write about it - but you have yet to write about Trump World's treatment of (minority) women. #SMH



A.J. Delgado

twitter.com

LL



COHEN000555



iMessage



9:58



Rapid response/Priv and Confidential >



GMA EXCLUSIVE:  
@RonanFarrow speaks on his  
new interview with Gov.  
Cuomo's first accuser Lindsey  
Boylan. [https://t.co/  
Z9L2mACot2](https://t.co/Z9L2mACot2) [https://t.co/  
U0EIHWG6I4](https://t.co/U0EIHWG6I4)



**Good Morning America**  
twitter.com



Melissa DeRosa



What is react

Fri, Mar 19, 10:03 AM

Richard Azzopardi

Btw, after all this. We weren't



iMessage

COHEN000556



9:58



Rapid response/Priv and Confidential >

Richard Azzopardi

Btw, after all this. We weren't the cover of the post and reopening baseball was the wood of the daily news and newscast.

RA

Stephanie Benton



SB

Fri, Mar 19, 11:14 AM

Richard Azzopardi

Well we'll well

RA

washingtonpost.com

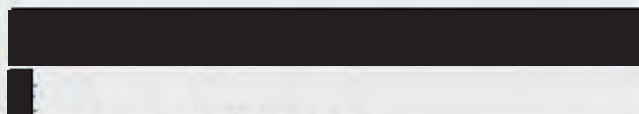


Linda Lacewell

LL

So he will resign right?

Stephanie Benton



SB

Can we dial in pls

Jefrey Pollock

JP

I can't till 12

COHEN00557



iMessage





9:58



Rapid response/Priv and Confidential >

Jefrey Pollock

JP I can't till 12

Fri, Mar 19, 1:56 PM

Stephanie Benton

SB twitter.com

Fri, Mar 19, 3:27 PM

Lis Smith



This is how Andrew Cuomo winds up surviving... so many New Yorkers (and people who live near New York) are like "yeah, he's an asshole but he has a BDB dartboard so I guess I approve of him." <https://t.co/KDKpkL1049>

LS Liz Mair  
twitter.com

H my god

Mayor Bill de Blasio, asked about Cuomo putting his face on a dart board, says: "We know that Gov. Cuomo like

COHEN000558



iMessage



9:59



Rapid response/Priv and Confidential >

H my god

Mayor Bill de Blasio, asked about Cuomo putting his face on a dart board, says: "We know that Gov. Cuomo, like Donald Trump, has been obsessed with the size of his hands. With those big big hands, how could he possibly hold those tiny darts? It's juvenile. It's frat house humor."



**Emma G. Fitzsimmons**

twitter.com

LS

Oh my god

Richard Azzopardi

RA

Spent all day thinking of that.  
ALL. DAY.

Lis Smith

LS

Took the bait

one of the worst attempts at a  
burn ever recorded.  
breathtaking <https://t.co/>



iMessage

COHEN000559



9:59



< 27



Rapid response/Priv and Confidential >

one of the worst attempts at a burn ever recorded. breathtaking. <https://t.co/3fa1prDYQB>

LS



**Shawn Hils**

twitter.com

Richard Azzopardi

Incredibly, Andrew Cuomo was driving one of the buses and Bill de Blasio the other <https://t.co/fsOHkgsgia>

RA



**David Freedlander**

twitter.com

"It's juvenile. It's frat house humor," says de Blasio after cracking a juvenile, frat house humor-like joke <https://t.co/AGbN05SfEA>

RA



**Chris Sommerfeldt**

twitter.com

Linda Lacewell



iMessage

COHEN000560



10:00



Rapid response/Priv and Confidential >

Linda Lacewell



Biden '100 percent' fine after stumble on Air Force One steps, aide says <https://t.co/xh63QDYlj7> <https://t.co/gPpH5tJ3DK>

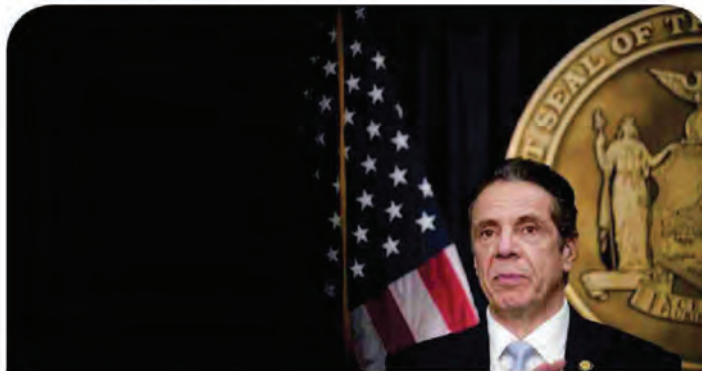


The Hill

twitter.com



Richard Azzopardi



COHEN000561



iMessage



10:00



< 27



Rapid response/Priv and Confidential >

Richard Azzopardi



**Cuomo Faces New Claims of Sexual Harassment From Current Aide**

nytimes.com

RA

Lis Smith



The big news here isn't that a current aide is accusing Cuomo of sexual harassment; it is that there is a contemporaneous account of the accusation that he groped a staffer <https://t.co/Q52DZcMLdH>

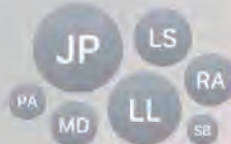


iMessage

COHEN000562



< 27



Rapid response/Priv and Confidential >

The big news here isn't that a current aide is accusing Cuomo of sexual harassment; it is that there is a contemporaneous account of the accusation that he groped a staffer <https://t.co/Q52DZcMLdH>

 **David Freedlander**  
twitter.com

LS

This is not what the story says

Jefrey Pollock

JP

Needs correction

Lis Smith

LS

It says was relayed after TU

Melissa DeRosa

MD

Rich calling



**David Freedlander** ✓  
@freedlander

...

Deleting and clarifying: it was contemporaneous to the alleged incident being reported publicly, not contemporaneous to when it was said to have occurred

COHEN000563



iMessage



< 27



Rapid response/Priv and Confidential >



David Freedlander   
@freedlander

...

Deleting and clarifying: it was contemporaneous to the alleged incident being reported publicly, not contemporaneous to when it was said to have occurred



MD

Fri, Mar 19, 7:21 PM

Richard Azzopardi

THEY DID IT!! Flight banner over NY on the 26th, and support rally outside NYC office tomorrow!! Come one come all!!  
@RichAzzopardi  
@melissadderosa  
@MariaCuomoCole  
@kennethcolereal



iMessage

COHEN000564



< 27



Rapid response/Priv and Confidential >

Richard Azzopardi

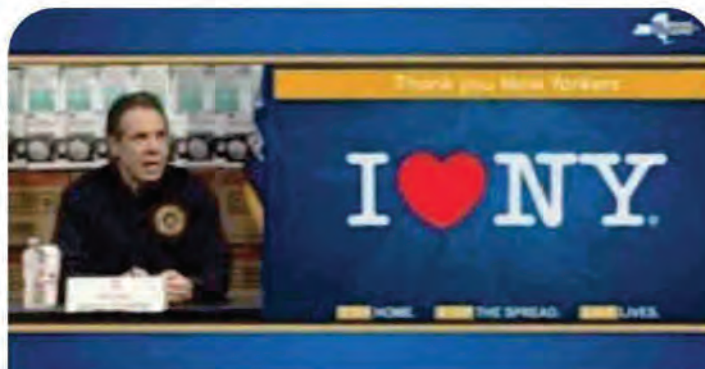
THEY DID IT!! Flight banner over NY on the 26th, and support rally outside NYC office tomorrow!! Come one come all!!  
@RichAzzopardi  
@melissadderosa  
@MariaCuomoCole  
@kennethcolereal  
@Mkennedycuomo  
@MichaelaKenCuo  
@andrewcuomo  
@NYGovCuomo <https://t.co/jFD3Gv6DMR>

RA



**Annalogue75**

twitter.com



A supporter has started a go fund me to get a giant billboard



iMessage

COHEN000565





< 27



Rapid response/Priv and Confidential >



A supporter has started a go fund me to get a giant billboard put on in albany close to the capitol building in support of the governor. And also to show all the NY elected officials how much new york supports @NYGovCuomo Please, share <https://t.co/2HJllkQP>

**All You Need is Gov. - All The Cuomo's Babes**

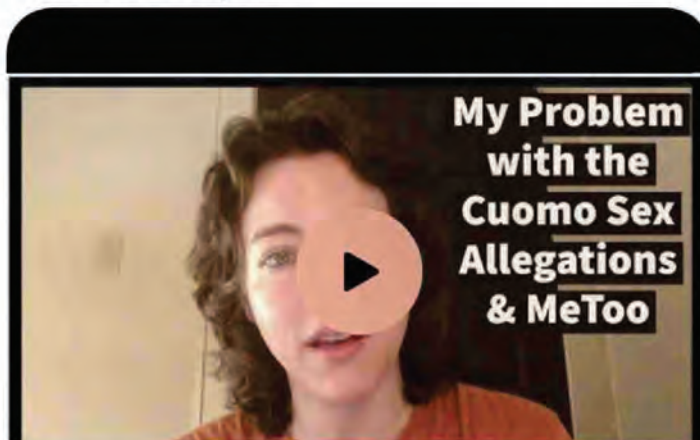


twitter.com

RA

Fri, Mar 19, 9:35 PM

Richard Azzopardi



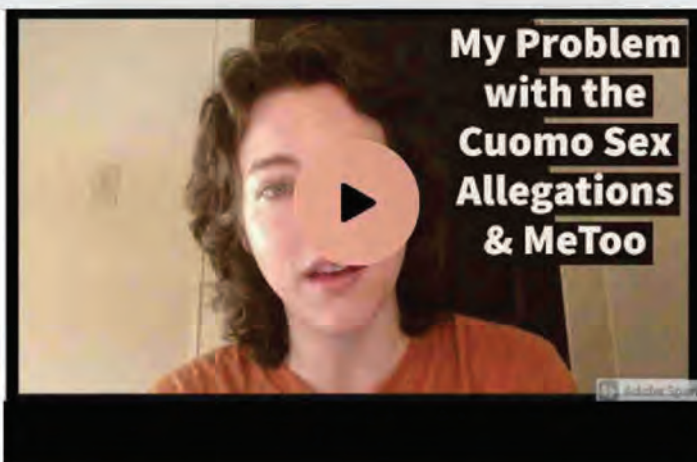
iMessage

COHEN000566





Rapid response/Priv and Confidential >



**My Problem with the Andrew Cuomo Sex Allegations ( MeToo Is Out of Control )** >

[youtube.com](https://www.youtube.com)

**My Problem with the Andrew Cuomo Sex Allegations ( MeToo Is Out of Control ) - YouTube**

I'm 15 in. Too long no doubt. But I want to hire her

RA

Sat, Mar 20, 7:43 AM

Linda Lacewell

In no way do I condone what Cuomo is accused of doing toward young women in his employ. Just want to point out that this is a clear generational



iMessage

COHEN000567





Rapid response/Priv and Confidential >

Linda Lacewell

In no way do I condone what Cuomo is accused of doing toward young women in his employ. Just want to point out that this is a clear generational shift, and I'm glad for it. The crap we put up with...we didn't even know we could push back on it.



**Lauren Wolfe**

twitter.com

LL



Why Is Andrew Cuomo Holding On? Blame New York's Politics of Masochism. <https://t.co/NkhzjbJe3X>



iMessage

COHEN000568





Rapid response/Priv and Confidential >

twitter.com

LL

Rich plz make them fix the bridge allegations ( [REDACTED] could do)

Peter Ajemian

PA

[REDACTED] is on it

Sat, Mar 20, 12:32 PM

Richard Azzopardi



**Malone police reform plan dismisses racism, highlights village's white heritage**

[northcountrypublicradio.org](http://northcountrypublicradio.org)

RA

Yikes

COHEN000569

Sat, Mar 20, 4:04 PM



Rapid response/Priv and Confidential >

Sat, Mar 20, 4:04 PM

Richard Azzopardi



**Lawmakers calling on Cuomo to resign face decision to return campaign cash**

[nypost.com](https://nypost.com)

RA

Ok assholes



White House coronavirus response coordinator @JeffZients was paid more than



iMessage

COHEN000570





Rapid response/Priv and Confidential >

White House coronavirus response coordinator @JeffZients was paid more than \$330k by @Facebook, for which he served as a board member. <https://t.co/3uiCHxvYQq>



Kenneth P. Vogel

twitter.com

RA



GOP lawyer resigns over treatment of Florida data analyst

tampabay.com

RA

Bressler AMERY & ROSS

17 State Street  
New York, NY 10038  
Tel: 212.430.1000  
Fax: 212.430.1001

the rights of New York women to a level unmatched by other state executive promoted more women in leadership positions than any other administrative. He was the champion of the Marriage Equality Act and the Compassionements that none of his predecessors believed possible, much less risked an

March 16, 2021

argument that he should resign because he is "distracted" from impi- a disingenuous, self-fulfilling prophecy. The governor has shown not the less struction. He has supported the attorney general's investigation. He has on, eschewing the grandstanding and endless press conferences for wh targeted with allegations have been notorious. If the legislators and others wle the media with the governor's troubles were truly interested in attendin they would speak their piece quickly and return to the business of legislating.

he airwaves, Internet and print media are inundated with debate and discussion by Andrew Cuomo, mainly among politicians who cover his job for themselves. In no one seems to be asking the most important question: what would the State more meaningfully, its citizens—stand to gain or lose from his departure? The me is little to gain and a lot to lose.

current trend of using impeachment, forced resignations and criminal prose of legislative instruments (i.e. like the alarming attacks on the Capitol in Januar eratic traditions... The 2020 election and the successful inauguration reasons we still works. That is precisely where the governor's fate should be determ

sexual harassment is a scourge that must be eradicated and deterred. If the same one more of these cases, there will have been enough to shake the country, the

COHEN000571



iMessage





**Bressler**  
AMERY & ROSS

17 State Street  
New York, NY 10038  
Tel: 212.420.1000  
Fax: 212.420.1017

Private and Confidential

March 18, 2021

For accuracy, interviews and press media are conducted with debate and discussion in Andrew Cuomo's name, primarily among politicians who covet his job for themselves. It is no use asking the most important question: what would the State stand for more meaningfully, its citizens—stand to gain or lose from his departure? There is little to gain and a lot to lose.

Equal harassment is a scourge that must be eradicated and deterred. If the courts can prove their cases, they will have ample recourse through the courts, the bars and potentially the 2022 election.

New York's notoriously bare knuckled political aspirants have already found the path to a death sentence for his career. No one, however, has advanced the state would be better off as the result of his resignation or even a defeat at the polls. The political road is paved with officials who have survived far worse all indications, yet led effectively, including some two-term occupants of the White House.

Andrew Cuomo has a record of accomplishment as New York's chief executive in decades, one that stands in stark contrast to his recent predecessors. In so many ways as well as friends. Nevertheless, one cannot gainsay a record that a Second Avenue Subway that largely floundered on the drawing board for replacing the dangerous and antiquated Tappan Zee Bridge in record time; help emerge from the Great Recession stronger than before; reducing crime statistics; improving labor relations while resisting ill-conceived tax increases and fiscal recklessness more than good in neighboring states like New Jersey. Could a successor, Cynthia Nixon, Bill DeBlasio, Alexandria Ocasio-Cortez or other Cuomo might these achievements to life?

For the point, the governor, though facing yet unproven accusations from a highly connected woman personal to them, has been at the forefront of promoting

the rights of New York women to a level unmatched by other state executive promoted more women in leadership positions than any other administration. He was the champion of the Marriage Equality Act and the Compassionate Care Act that none of his predecessors believed possible, much less risked any support.

His "rival's" argument that he should resign because he is "distracted" from his duties is a disingenuous, self-fulfilling prophecy. The governor has shown not the least distraction. He has supported the attorney general's investigation. He has continued, eschewing the grandstanding and endless press conferences for which he is targeted with allegations have been numerous. If the legislators and others at the media with the governor's health were truly interested in attending to their duties, they would speak their piece quickly and return to the business of legislating.

The current trend of using impeachment, forced resignations and criminal proceedings of legislative instruments is, like the alarming attacks on the Capitol in January, a departure from tradition. The 2020 election and the successful inauguration remain the best way to resolve such issues. That is precisely where the governor's fate should be determined.

David H. Piken

Another excellent piece on @NYGovCuomo

New Yorkers do not want to change their leadership in the middle of the worst health and economic crisis in a century.

Investigate... if the evidence proves any wrong doing... then and only then should consequences be determined. #Cuomo

COHEN000572



iMessage



< 28



Rapid response/Priv and Confidential >

#Cuomo



**Billy Baldwin**

twitter.com

Sun, Mar 21, 9:55 AM

Richard Azzopardi

.@RichAzzopardi is a vile person, and it's honestly disgraceful that he continues to be employed by the tax payers of New York. Not gonna wait till he is dead to talk shit about him, Rich, you can kick rocks!

100 <https://t.co/NIP7dX0nil>



**Mike Dunn** 🇺🇸 🐶 🇺🇸

twitter.com



Kick rocks?

Sun, Mar 21, 7:24 PM

Richard Azzopardi

"First, I apologize to Nicolette Davis. Even though I am only hearing of this matter as stated by Ms. Davis in the article now, I hear her voice and will not dismiss her. In reflection, my personal depiction of this event is irrelevant. Simply put, my behavior caused her pain, showed her disrespect and was unprofessional. I was wrong, I am sorry, and I take full responsibility. I further apologize to my wife and kids, my family, the people of the 23rd District, my colleagues, and those who have supported me for the harm this caused them.

"Second, I want to share that this occurred at a time in my life in which I was struggling. Upon entering treatment in 2017, I recognized that I am powerless over alcohol. I am now approaching four years of that personal lifelong journey of recovery. With the support of my wife, kids and loved ones, professional help, and trust in a higher power, I continue that journey day-by-day. This is in no way an excuse for anything I've done. Consistent with my recovery, I publicly take ownership of my past actions, offer this amends and humbly apologize again to Ms. Davis, my wife and kids, loved ones, and to all of you."

"Third, I plan to dedicate my time and attention to making amends for my past actions. In addition to apologizing to those I have impacted, including Ms. Davis, I will be seeking to help those wrestling with addiction in any way I can. To others who may be struggling the way I have, please know that by seeking

COHEN00573



iMessage







Rapid response/Priv and Confidential >

Sun, Mar 21, 7:24 PM

Richard Azzopardi

"First, I apologize to Nicolette Davis. Even though I am only hearing of this matter as stated by Ms. Davis in the article now, I hear her voice and will not dismiss her. In reflection, my personal depiction of this event is irrelevant. Simply put, my behavior caused her pain, showed her disrespect and was unprofessional. I was wrong, I am sorry, and I take full responsibility. I further apologize to my wife and kids, my family, the people of the 23rd District, my colleagues, and those who have supported me for the harm this caused them.

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"Third, I plan to dedicate my time and attention to making amends for my past actions. In addition to apologizing to those I have impacted, including Ms. Davis, I will be seeking to help those wrestling with addiction in any way I can. To others who may be struggling the way I have, please know that by seeking help your life will be forever changed in an extremely positive way. Though the journey is hard please know the rewards are amazing and you are worth it."

"As I go forward, I will strive to be a better human being, continue to fight for what I believe in, and to make people's lives better in any way I can. I hope this formal apology is just the start."

Tom Reed further announced Sunday he will not be running for any elected office in 2022. When Reed was first elected to Congress in 2010, he pledged to voters to only serve six terms (12 years) and therefore will be retiring from public service on January 2nd, 2023.

**NEW: Rep. Tom Reed, R-Corning, confirms he will not run for reelection next year.**

Reed has released an extended statement on the claim from a former lobbyist who says he drunkenly unhooked her bra at a dinner in 2017. He says he is an alcoholic who sought treatment that year.



**Jon Campbell**

twitter.com

Melissa DeRosa



What about any other offive?



iMessage

COHEN000574



< 28



Rapid response/Priv and Confidential >

Melissa DeRosa

MD What about any other offive?

Lis Smith

LS Not for gov or Congress

Richard Azzopardi

RA He out

RA Zeldin is stronger but still  
Congress can flip in a second  
and that's a real thing

Linda Lacewell

WSJ  
Rep. Tom Reed Says He Won't  
Run for Re-election in 2022  
After allegations of  
inappropriate sexual conduct,  
the New York lawmaker said he  
wouldn't run for governor either



iMessage

COHEN000575





U.S. Rep. Tom Reed, pictured in December

PHOTO: KEN CEDENO/  
REUTERS

By Kristina Peterson

Updated March 21, 2021 7:27  
pm ET

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the audio tag.

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2 minutes



iMessage

COHEN000576





Listen to this article  
2 minutes

00:00

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.cls-1{fill:#666;}thumb-stroke-medium.cls-1{fill:#666;}thumb-stroke-medium

WASHINGTON— Rep. Tom Reed (R., N.Y.) said in a statement Sunday night he would not run for re-election or for governor in 2022, following allegations last week of inappropriate sexual conduct. Mr. Reed also apologized to Nicolette Davis, who told the Washington Post last week that the lawmaker had made unwanted sexual advances to her in 2017, which he said on

COHEN000577



iMessage





Mr. Reed also apologized to Nicolette Davis, who told the Washington Post last week that the lawmaker had made unwanted sexual advances to her in 2017, which he said on Friday was inaccurate. "Simply put, my behavior caused her pain, showed her disrespect and was unprofessional. I was wrong, I am sorry, and I take full responsibility," Mr. Reed said in a statement Sunday evening.





Ms. Davis, a second lieutenant in the U.S. Army who at the time worked as an insurance lobbyist, said Mr. Reed put his hand on her back, unhooked her bra and touched her leg during a fundraising trip, according to an account she gave to the Washington Post. She didn't immediately respond to a request for comment Sunday night.

Mr. Reed said the incident occurred when he was still struggling with an addiction to alcohol, for which he later sought treatment.

"In addition to apologizing to



< 30



Rapid response/Priv and Confidential >

Mr. Reed said the incident occurred when he was still struggling with an addiction to alcohol, for which he later sought treatment.

"In addition to apologizing to those I have impacted, including Ms. Davis, I will be seeking to help those wrestling with addiction in any way I can," Mr. Reed said.

Mr. Reed had said earlier this year that he was seriously considering a run for governor of New York in 2022.

LL

How New York Gov. Andrew Cuomo Is Fighting for Political Survival  
Political operatives and pollsters say a strategy that includes appearances with civil-rights leaders is working for now

LL

New York Gov. Andrew Cuo... >

Mon, Mar 22, 8:44 PM

Melissa DeRosa



iMessage

COHEN000580



How New York Gov. Andrew Cuomo Is Fighting for Political Survival  
Political operatives and pollsters say a strategy that includes appearances with civil-rights leaders is working for now

LL

New York Gov. Andrew Cuo... >

Mon, Mar 22, 8:44 PM

Melissa DeRosa



Cuomo calls female supporter 'darling' amid sex-harass probes <https://t.co/3arKmt0Fkk>

MD



New York Post

mobile.twitter.com

COHEN000581

Lis Smith



< 30



Rapid response/Priv and Confidential >

MD



**New York Post**

mobile.twitter.com

Lis Smith

LS

Basically validates argument we have been making

Tue, Mar 23, 7:54 AM

Linda Lacewell

LL

Bdb trashing Gov on morning joe

Tue, Mar 23, 9:56 AM

Richard Azzopardi

RA

Well that's a curveball

**Caputo seeks House probe of Reed's behavior with lobbyist | Buffalo P...**



buffalonews.com

Thu, Mar 25, 4:05 PM

Lis Smith

LS

loscerritosnews.net



Flagging that some other stuff might come down the pike in terms of the news cycle

COHEN000582



iMessage



< 30



Rapid response/Priv and Confidential >

Lis Smith

Flagging that some other stuff might come down the pike in terms of the news cycle

LS

loscerritosnews.net



Mon, Mar 29, 2:24 PM

Jefrey Pollock

JP

Any news on today?

Linda Lacewell



#NEW Los Angeles-based attorney Gloria Allred will be holding a conference with a woman she says had her face grabbed and kissed by Gov. Andrew Cuomo. We will stream the conference on <https://t.co/5GPI4I3Zja> at 2:30. <https://t.co/5GPI4I3Zja>

COHEN000583



iMessage



< 30



Rapid response/Priv and Confidential >

#NEW Los Angeles-based attorney Gloria Allred will be holding a conference with a woman she says had her face grabbed and kissed by Gov. Andrew Cuomo. We will stream the conference on <https://t.co/5GPI4I3Zja> at 2:30. <https://t.co/UglUM0oOKZ>



**News 4 Buffalo**

twitter.com

LL

Might be able to watch here

Mon, Mar 29, 2:32 PM

Maggie Moran left the conversation.

Mon, Mar 29, 2:33 PM

Josh Vlasto left the conversation.

Jefrey Pollock

Ok watching but we should just not go crazy on this. It's a nothing

JP

And we should not treat it as anything other than that



iMessage

COHEN000584



---

**Sent:** Wednesday, March 10, 2021 8:17 PM  
**To:** Melissa DeRosa [REDACTED]; Peter Ajemien [REDACTED] Lis Smith <+ [REDACTED]>  
**Subject:** CHAT - C0784 - 2021/03/10

**Lis Smith**  
3/10/2021 8:17 PM

I can't hear anything

**Melissa DeRosa**  
3/10/2021 8:17 PM

Do t speak

**Melissa DeRosa**  
3/10/2021 8:17 PM

U r on now

**Lis Smith**  
3/10/2021 8:17 PM

I'm muted

**Melissa DeRosa**  
3/10/2021 8:18 PM

Can u hear?

**Lis Smith**  
3/10/2021 8:18 PM

Y

**Lis Smith**  
3/10/2021 8:19 PM

Ong it's kaitlin

**Lis Smith**  
3/10/2021 8:21 PM

I fucking lost it at the lumberjack

**Lis Smith**  
3/10/2021 8:22 PM



Do email and phone

**Lis Smith**

3/10/2021 8:22 PM

Make it painful for her

**Lis Smith**

3/10/2021 8:26 PM

Guys

**Lis Smith**

3/10/2021 8:26 PM

Rich

**Lis Smith**

3/10/2021 8:26 PM

Stop

**Lis Smith**

3/10/2021 8:26 PM

You're being absurd

**Lis Smith**

3/10/2021 8:26 PM

Find a right balance

**Lis Smith**

3/10/2021 8:27 PM

Have someone else take over e call

**Lis Smith**

3/10/2021 8:27 PM

Not rich

**Lis Smith**

3/10/2021 8:27 PM

Oeter or Melissa

**Lis Smith**

3/10/2021 8:27 PM

Take over

**Lis Smith**

3/10/2021 8:32 PM

Melissa I can hear you

**Lis Smith**

3/10/2021 8:33 PM

Guys

**Peter Ajemien**

3/10/2021 8:33 PM

She's muting Rich's phone when she does that

**Lis Smith**

3/10/2021 8:33 PM

We know what she's saying

**Lis Smith**

3/10/2021 8:33 PM

It's gonna be written for our interpretation

**Lis Smith**

3/10/2021 8:33 PM

That last chick wouldn't have lasted an hour in pete for America comms

**Melissa DeRosa**

3/10/2021 8:36 PM

This is so stupid

**Lis Smith**

3/10/2021 8:36 PM

I'm dying

**Peter Ajemien**

3/10/2021 8:37 PM

How are we supposed to behave in restrooms?

**Lis Smith**

3/10/2021 8:37 PM

I'm dying

**Peter Ajemien**  
3/10/2021 8:37 PM

I really need to know

**Peter Ajemien**  
3/10/2021 8:37 PM

I don't know the rules

**Lis Smith**  
3/10/2021 8:40 PM

This doesn't sound so bad

**Lis Smith**  
3/10/2021 8:40 PM

Let's do a call on this later w team

**Lis Smith**  
3/10/2021 8:41 PM

We know they are Melissa and Stephanie

**Lis Smith**  
3/10/2021 8:41 PM

Linda Lovelace

**Lis Smith**  
3/10/2021 8:41 PM

Was the porn star

**Lis Smith**  
3/10/2021 8:41 PM

Omg

**Lis Smith**  
3/10/2021 8:41 PM

Don't correct them

**Lis Smith**  
3/10/2021 11:34 PM

I'm having a panic attack

**Lis Smith**  
3/10/2021 11:34 PM

I can't breathe



---

**Sent:** Monday, March 8, 2021 2:57 PM  
**To:** Marina Villeneuve [REDACTED]; Rich Azzopardi [REDACTED] >  
**Subject:** CHAT - 01560 - 2021/03/08

**Marina Villeneuve**  
3/8/2021 2:57 PM

Any details on Cuomo at Javits? Closed press?

**Marina Villeneuve**  
3/8/2021 3:23 PM

Why is the governor calling up lawmakers to warn that calling for his resignation could threaten the AG's investigation?

**Marina Villeneuve**  
3/8/2021 3:59 PM

Why didn't you let me know it's closed press?

**Marina Villeneuve**  
3/8/2021 4:49 PM

?



To: [REDACTED]@exec.ny.gov]  
Cc: Richard Azzopardi [REDACTED]@exec.ny.gov]; Peter Ajemian [REDACTED]@exec.ny.gov]  
From: Bernadette Hogan [REDACTED]@nypost.com]  
Sent: Thur 3/4/2021 4:43:31 PM Eastern Standard Time  
Subject: Re: Re: FROM NYPOST: TU story on Charlotte Bennett complaint

---

That response doesn't answer my questions.  
Why wasn't this complaint handled by GOER in the first place?  
Did the executive chamber break its own rules?

Thanks,

Bernadette

**BERNADETTE HOGAN**  
**Albany Reporter, *New York Post***  
LCA - PO Box 7269, New York State Capitol  
Albany, NY 12224  
CELL: [REDACTED]  
[REDACTED]@nypost.com

On Thu, Mar 4, 2021 at 4:38 PM [REDACTED]@exec.ny.gov> wrote:

Here's the response:

*Second, regarding complaints/investigations and related policies, quote from Beth Garvey: "As previously stated, we will not have further comment on this until the AG's review is complete, and we cannot comment on this at this time."*

**From:** Bernadette Hogan [REDACTED]@nypost.com>  
**Sent:** Thursday, March 4, 2021 4:39 PM  
**To:** [REDACTED]@exec.ny.gov>; Richard Azzopardi [REDACTED]@exec.ny.gov>; Peter Ajemian [REDACTED]@exec.ny.gov>  
**Subject:** Re: Re: FROM NYPOST: TU story on Charlotte Bennett complaint

Is this all off the record or your official response?

If Garvey did not handle the complaint, then what exactly did Ms. Mogul and Ms. DesRosier do?

Did they open a formal investigation?

If not, why - as that goes against state policy? In Governor Cuomo signed an executive order in August 2018 that took effect in December of 2019, which made the Governor's Office of Employee Relations "responsible for conducting all investigations into employment-related discrimination complaints."

Back to the questions I need answers for:

1. What complaint did Ms. Mogul and Ms. DesRosier review?
2. Did either of them open a formal investigation? If so, what were the findings?
3. Was Charlotte Bennett's complaint referred to the Governor's Office of Employee Relations?
4. If yes, was a formal investigation conducted?
5. If yes, what are the results of the investigation?
6. Does the Executive Chamber believe its personnel are not subject to the laws governing other New York State government agencies and offices?

**EXHIBIT**  
**45**

Thanks,

Bernadette

**BERNADETTE HOGAN**

**Albany Reporter, *New York Post***

LCA - PO Box 7269, New York State Capitol

Albany, NY 12224

CELL: [REDACTED]

[REDACTED]@nypost.com

On Thu, Mar 4, 2021 at 4:27 PM Jack Sterne [REDACTED]@exec.ny.gov> wrote:

Hey Bern -- Responding to your questions re: the TU story with a few points below.

First, off the record, I just want to point out (as the original NYT story mentioned), Beth did not "handle" the complaint as you say. As the Times reported, it was Jill DesRosier and Judith Mogul.

Second, regarding complaints/investigations and related policies, **quote from Beth Garvey:** "As previously stated, we will not have further comment on this until the AG's review is complete, and we cannot comment on this at this time."

Third, pointing to Beth's original statement back on Saturday:

"Ms. Bennett's concerns were treated with sensitivity and respect and in accordance with applicable law and policy.

"The matter was promptly escalated to special counsel. Ms. Bennett received the transfer she requested to a position in which she had expressed a long-standing interest, and was thoroughly debriefed on the facts which did not include a claim of physical contact or inappropriate sexual conduct. She was consulted regarding the resolution, and expressed satisfaction and appreciation for the way in which it was handled.

"The determination reached based on the information Ms Bennett provided was that no further action was required which was consistent with Ms Bennett's wishes.

[REDACTED]

**From:** Lis Smith [REDACTED]@gmail.com> on behalf of Lis Smith [REDACTED]@gmail.com>  
**To:** Rich Azzopardi  
**CC:** Dani Lever; Melissa DeRosa; Peter Ajemian  
**Sent:** 3/3/2021 4:54:20 PM  
**Subject:** Re: Inquiry re: Cuomo

This would be bad for my credibility and yours

On Wed, Mar 3, 2021 at 12:40 PM Rich Azzopardi [REDACTED]@gmail.com> wrote:  
Yeah don't.

On Wed, Mar 3, 2021 at 12:40 PM Lis Smith [REDACTED]@gmail.com> wrote:

I do t know this guy and do not want to be a part of story and will ignore completely unless told otherwise

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

**From:** Campbell, Jon [REDACTED]@gannett.com>  
**Date:** Wed, Mar 3, 2021 at 12:38 PM  
**Subject:** Inquiry re: Cuomo  
**To:** [REDACTED]@gmail.com [REDACTED]@gmail.com>

Hi Lis,

I'm working on a story on Cuomo and who is advising him amid the sexual harassment tumult.

Are you part of the team advising Cuomo? Would you be interested in talking about it?

Thanks,

**Jon Campbell**  
New York State Team editor



# USA TODAY NETWORK

Mobile: [REDACTED]  
Office: [REDACTED]  
[REDACTED]@gannett.com

--  
Rich Azzopardi  
(c) [REDACTED]

EXHIBIT

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