

ASSEMBLY, No. 3063

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED FEBRUARY 20, 2020

Sponsored by:

Assemblywoman ELIANA PINTOR MARIN

District 29 (Essex)

Assemblywoman NANCY F. MUNOZ

District 21 (Morris, Somerset and Union)

Assemblywoman CAROL A. MURPHY

District 7 (Burlington)

SYNOPSIS

Clarifies provisions concerning disclosure of existence and content of discrimination or harassment complaints; permits certain disclosures to person against whom complaint is made.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 2/22/2021)

1 **AN ACT** concerning the policy prohibiting discrimination in a State
2 agency workplace and supplementing chapter 7 of Title 11A of
3 the New Jersey Statutes.

4
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*

7
8 1. a. Any provision of current law, rule, or regulation requiring
9 a complaint and investigation of discrimination or harassment in
10 any State workplace to be handled, to the extent possible, in a
11 manner that shall protect the privacy interests and confidentiality of
12 those involved, shall not be interpreted to preclude the employee
13 who filed the complaint from disclosing the existence and the
14 contents of the complaint to other government agencies or persons.

15 b. Any provision of current law, rule, or regulation providing
16 that, in the course of an investigation, it may be necessary to
17 discuss the claims made in a discrimination or harassment
18 complaint with the person against whom the complaint was filed
19 and with other persons who may have relevant knowledge or who
20 have a legitimate need to know about the matter, shall not be
21 interpreted to preclude the person with whom the complaint was
22 filed from disclosing the existence and the contents of the complaint
23 to the head of the State agency, or to a State officer or employee or
24 special State officer or employee as defined under section 2 of
25 P.L.1971, c.182 (C.52:13D-13), who is in a leadership position at
26 the State agency workplace where the prohibited discrimination or
27 harassment is alleged to have occurred.

28 c. The permitted disclosures concerning the existence and the
29 contents of a discrimination or harassment complaint under
30 subsections a. and b. of this section shall not constitute a violation
31 of any confidentiality directive and shall not result in any
32 administrative or disciplinary action or termination of employment.

33 d. Notwithstanding any law, rule, or regulation to the contrary,
34 the head of the State agency or the person with whom the complaint
35 was filed may disclose the existence and the contents of the
36 complaint to the person against whom the complaint was filed. At
37 the conclusion of the investigation, the head of the State agency
38 may notify the person against whom the complaint was filed of the
39 investigation's conclusion and may disclose the outcome of the
40 investigation. The permitted disclosures concerning the existence
41 and the contents of a discrimination or harassment complaint and
42 the conclusion and outcome of an investigation under this
43 subsection shall not constitute a violation of any confidentiality
44 directive and shall not result in any administrative or disciplinary
45 action or termination of employment.

46 e. As used in this section, "head of the State agency" means the
47 commissioner of a department in the Executive branch of State
48 government or an individual in that department designated by the

1 commissioner who shall be a deputy commissioner, an assistant
2 commissioner, a chief of staff, or an individual in an equivalent
3 administrative and supervisory position.

4
5 2. This act shall take effect immediately.

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8 STATEMENT

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10 Under current regulation by the New Jersey Civil Service
11 Commission, at N.J.A.C.4A:7-3.1, concerning the policy
12 prohibiting discrimination in the workplace, complaints concerning
13 discrimination or harassment in a State workplace must be kept
14 confidential and protect the privacy rights of those involved. The
15 regulation provides, in pertinent part (j), that all “complaints and
16 investigations shall be handled, to the extent possible, in a manner
17 that will protect the privacy interests of those involved. To the
18 extent practical and appropriate under the circumstances,
19 confidentiality shall be maintained throughout the investigative
20 process. In the course of an investigation, it may be necessary to
21 discuss the claims with the person(s) against whom the complaint
22 was filed and other persons who may have relevant knowledge or
23 who have a legitimate need to know about the matter. All persons
24 interviewed, including witnesses, shall be directed not to discuss
25 any aspect of the investigation with others in light of the important
26 privacy interests of all concerned. Failure to comply with this
27 confidentiality directive may result in administrative and/or
28 disciplinary action, up to and including termination of
29 employment.”

30 This bill provides that these privacy and confidentiality
31 requirements would not be interpreted to preclude an employee who
32 filed the complaint from disclosing the existence and the contents of
33 the complaint to other government agencies or persons. The bill
34 further provides that these requirements would not be interpreted to
35 preclude the disclosure of the existence and the contents of the
36 complaint to the head of the State agency or to a State officer or
37 employee or special State officer or employee in a leadership
38 position at the State agency workplace where the prohibited
39 discrimination or harassment is alleged to have occurred. Finally,
40 the bill clarifies that the disclosures allowed by the bill would not
41 constitute a violation of any confidentiality directive and would not
42 result in administrative or disciplinary action or termination of
43 employment.

44 This bill further permits the head of the State agency or the
45 person with whom the complaint was filed to disclose the existence
46 and the contents of the complaint to the person against whom the
47 complaint was filed. At the conclusion of the investigation, the head
48 of the State agency may notify the person against whom the

1 complaint was filed of the investigation's conclusion and may
2 disclose the outcome of the investigation. Under the bill, these
3 permitted disclosures concerning the existence and the contents of a
4 discrimination or harassment complaint and the conclusion and
5 outcome of an investigation would not constitute a violation of any
6 confidentiality directive and would not result in any administrative
7 or disciplinary action or termination of employment.

8 The bill defines "head of the State agency" as the commissioner
9 of a department in the Executive branch of State government or an
10 individual in that department designated by the commissioner who
11 is a deputy commissioner, an assistant commissioner, a chief of
12 staff, or an individual in an equivalent administrative and
13 supervisory position.