SENATE, No. 1692

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED FEBRUARY 13, 2020

Sponsored by:
Senator LORETTA WEINBERG
District 37 (Bergen)

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.

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

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

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

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

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

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

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

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

2. This act shall take effect immediately.

STATEMENT

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

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

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

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

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