



State University of New York

Memorandum to Presidents

Date: December 21, 1983 Vol. 83 No. 15

From: Office of the Executive Vice Chancellor

Subject: New Executive Orders No. 17 and 19 on the Conduct of State Business in Private Establishments and on Sexual Harassment

To: Presidents, State-operated Campuses

There have been two recent Executive Orders issued by Governor Cuomo establishing State Policy in the nondiscrimination area. The first, Executive Order No. 17, directs that State officials and employees shall not sponsor, organize, attend or participate in any activity, the purpose of which is related to State business, in any private establishment which does not afford full membership rights and privileges to any person because of age, race, creed, color, national origin, sex, disability or marital status. This Order considerably expands upon the earlier 1980 policy memorandum that was issued by Robert J. Morgado. As you will recall, the 1980 policy memorandum requested that State officials not conduct business in private establishments which did not afford women full membership rights. (See Memorandum to Presidents dated July 30, 1980.)


Executive Order No. 19 deals with the important subject of sexual harassment in the workplace. It restates as an executive mandate the prior policy statement that was issued by the Governor's Office of Employee Relations ("OER") in 1981 (see Memorandum to Presidents dated June 3, 1981). Pursuant to that earlier OER directive, each campus issued and distributed a strong policy statement prohibiting sexual harassment in the workplace. There has, however, been one significant change in procedure. The Executive Order requires each agency to "report all complaints and their resolution to the Governor's Office of Employee Relations." We have interpreted this to mean only those complaints which have not been informally resolved in the internal grievance process. These complaints should be reported to Dolores Schmidt (518-473-1091), who will then compile that information and transmit it to OER.

At this early stage, questions may be raised as to the scope and effect of each Executive Order. Therefore further clarification from the Executive Chamber may be required.

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Your prompt attention to these important nondiscrimination matters is appreciated. I have enclosed copies of both Executive Orders for your information. If you or your staff have any questions please contact the Office of University Counsel (518-473-7591) or the Affirmative Action Office (518-473-1091).



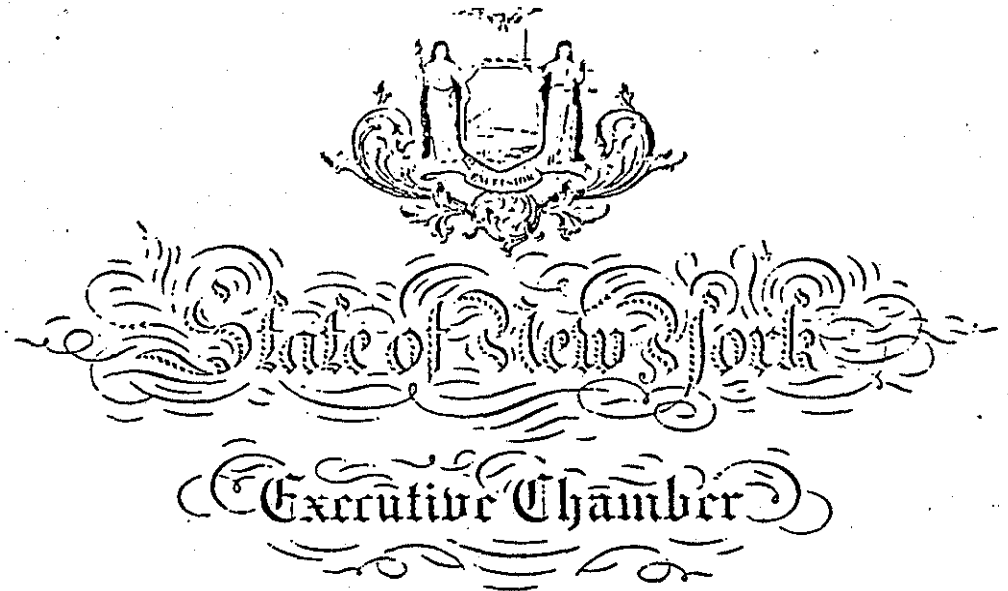
Donald D. O'Dowd

Enclosures

cc: Chancellor Wharton
Executive Council
Affirmative Action Officers

Copies for information only sent to:

Presidents, Community Colleges
Deans, Statutory Colleges
President Coll
Vice Provost Spencer



No. 17

EXECUTIVE ORDER

ESTABLISHING STATE POLICY ON
PRIVATE INSTITUTIONS WHICH DISCRIMINATE

WHEREAS, New York State has always been in the forefront of the struggle for equal rights, including the right of every person to participate in all aspects of our society on an equal basis; and

WHEREAS, our commitment to the equality of all persons is clearly expressed in the laws and public policy of this State, it is the responsibility of all officials in the Executive Branch to see to it that this strong commitment is met; and

WHEREAS, exclusion of persons because of their age, race, creed, color, national origin, sex, disability or marital status, as full members of private establishments where business and professional and public events are conducted discriminates against those persons and serves to disadvantage them, and patronage of such establishments encourages the continuation of such discrimination;

NOW, THEREFORE, I, Mario M. Cuomo, Governor of the State of New York, by virtue of the authority vested in me by the Constitution and laws of the State of New York, direct that State officials and employees shall not sponsor, organize, attend or participate in any meeting or other activity, the purpose of which is related to State business, in any private establishment or facility which does not afford full membership rights and privileges to any person because of age, race, creed, color, national origin, sex, disability or marital status.

G I V E N under my hand and the Privy

Seal of the State in the City of

Albany this thirty-first day of

May the year one thousand nine

hundred eighty-three.

(L.S.)

BY THE GOVERNOR

/s/ Mario M. Cuomo

/s/ Michael J. Del Giudice
Secretary to the Governor



No. 19

E X E C U T I V E O R D E R

NEW YORK STATE
POLICY STATEMENT ON
SEXUAL HARASSMENT IN THE WORKPLACE

WHEREAS, sexual harassment in the workplace is not merely offensive but is a form of discrimination in violation of Federal and State law; and

WHEREAS, every State employee is entitled to a working environment free from sexual harassment and its deleterious economic, psychological and physical effects; and

WHEREAS, the cost to the State is considerable 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;

NOW, THEREFORE, I, Mario M. Cuomo, Governor of the State of New York, by virtue of the authority vested in me by the Constitution and laws of the State of New York, do hereby establish a New York State Policy Statement on Sexual Harassment in the Workplace.

I. The head of each department, agency, board, commission or other entity under the jurisdiction of the Executive Branch shall:

- a. Issue a strong management policy statement defining and prohibiting sexual harassment in the workplace. The policy statement should inform employees of their rights of redress, and the availability of complaint resolution channels and assistance with incidents of sexual harassment. The policy statement should make clear that sexual harassment is considered a form of employee misconduct and that sanctions will be enforced against individuals engaging in sexual harassment and against supervisory and managerial personnel who knowingly allow such behavior to continue.
- b. Widely distribute the policy statement by providing it to all employees, including it in new employee orientation, and publicizing it in internal employee publications.
- c. Conduct appropriate training to instruct and sensitize all employees.
- d. Develop guidelines to ensure the swift and thorough investigation of allegations and complaints of sexual harassment and enforcement of appropriate sanctions including disciplinary actions. The affirmative action officer shall have responsibility for processing complaints.

Because of the sensitivity of the issue, particular efforts should be made to conduct investigations with due regard for confidentiality to ensure protection of the complainant and the accused. Although the intent is to address and resolve these matters at the workplace, victims should be informed of the various administrative and legal remedies available.

The complaint procedure should provide for subsequent review to determine if the sexual harassment has been effectively stopped.

- e. Provide the Governor's Office of Employee Relations with a copy of the policy statement and a brief description of the actions taken and planned in regard to preventing and combating sexual harassment in the State workplace, and report all complaints and their resolution to the Governor's Office of Employee Relations.

As used in this Order, unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature will constitute sexual harassment when:

1. Submission to the conduct is either explicitly or implicitly a term or condition of an individual's employment; or
2. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
3. The conduct has the purpose or effect of unreasonably interfering with an affected person's work performance, or creating an intimidating, hostile, or offensive work environment.

II. The Governor's Office of Employee Relations shall provide information to the entities covered by this Executive Order to assist in the implementation and the operation of the policy established by this Executive Order.

Nothing in this Order shall be construed to enlarge upon nor limit or abridge the rights of any person under the United States or State Constitutions or the Statutes of the United States or the State of New York.

G I V E N under my hand and the Privy
Seal of the State in the City of
Albany this thirty-first day of
May in the year one thousand nine
hundred eighty-three.

(L.S.)

BY THE GOVERNOR

/s/ Mario M. Cuomo

/s/ Michael J. Del Giudice
Secretary to the Governor