



THE ASSEMBLY  
STATE OF NEW YORK  
ALBANY

August 24, 2012

Honorable Sheldon Silver, Speaker  
New York State Assembly  
Legislative Office Building  
Albany, New York 12248

Dear Speaker Silver:

On July 16, 2012, the Office of Counsel to the Majority received a telephone call from an Assembly employee who stated that she wanted to file a sexual harassment complaint against Assemblymember Vito Lopez. The following day, the Office of Counsel to the Majority received a telephone call from a second employee who complained of sexual harassment by Assemblymember Lopez. These complaints were promptly forwarded to the Assembly Standing Committee on Ethics and Guidance.

The Assembly Sexual Harassment/Retaliation Policy (the "Policy") states that sexual harassment will not be tolerated within the Assembly workplace. It follows the Federal Equal Opportunity Commission Guidelines with respect to the definition of sexual harassment. Such definition includes unwelcome verbal or physical conduct of a sexual nature when such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment. The Policy further states that no Assembly employee shall be subject to any form of retaliation because they report, complain of, or provide information, assistance and/or testimony related to any complaint of sexual harassment.

The Policy provides that complaints of sexual harassment and/or retaliation against a Member of the Assembly shall be referred to this Committee for investigation and that upon the conclusion of the investigation, the Committee shall report its finding to the Speaker accompanied by a recommended remedy, or dispose of the matter in accordance with its policy regarding disciplinary matters.

The Committee promptly initiated an investigation of this matter, which included witness interviews, relevant documentary evidence, and testimony and documents provided pursuant to subpoena. During the course of the investigation, Assemblymember Lopez was given a copy of the written complaint submitted by the complainants' attorney detailing the allegations against him and was afforded the opportunity to appear before the Committee or provide a sworn statement in relation to this matter. Assemblymember Lopez chose neither to come before the

Committee nor to provide a sworn statement. He did, however, have his lawyer provide a written denial of the allegations.

The Complainants are young women in their twenties employed in the district office of Assemblymember Lopez. Both cooperated fully with the Committee's investigation.

Based upon its investigation, the Committee made the following findings:

1. That Complainants' allegations of unwelcome verbal and physical conduct of a sexual nature were credible, including:
  - That there was pervasive unwelcome verbal conduct by Assemblymember Vito Lopez toward both complainants from early June 2012 until the time they made complaints of sexual harassment in mid-July 2012, including repeated comments about their physical appearance, their bodies, their attire, and their private relationships;
  - That the unwelcome verbal and physical conduct escalated over time;
  - That there were multiple incidents of unwelcome physical conduct toward one complainant, wherein Assemblymember Lopez put his hand on her leg, she removed his hand, and he then put his hand between her upper thighs, putting his hand as far up between her legs as he could go;
  - That Assemblymember Lopez required one of the complainants to take a trip with him to Atlantic City in July 2012, and that he attempted to kiss her, that she struggled to fend him off before he stopped, and that on the drive back from Atlantic City he again put his hand between her legs; and
  - That other incidents of unwelcome physical conduct occurred, including holding one complainant's hand and playing with her hair.
2. That Complainants' perception that such conduct created an intimidating, hostile and offensive working environment was reasonable;
3. That Complainant's allegations that Assemblymember Lopez required both complainants to write to him about how much they loved their jobs and cared about him, and that he criticized their notes for being insufficiently effusive, were credible;
4. That Assemblymember Lopez's response was not credible; and
5. That Assemblymember Lopez violated the Assembly's Sexual Harassment/Retaliation Policy, which appropriately provides that every Assembly employee is entitled to an employment environment free from sexual harassment and that sexual harassment will not be tolerated within the Assembly workplace.

It is the Committee's considered judgment that Assemblymember Lopez's conduct constituted a violation of the Assembly's sexual harassment policy and that such conduct warrants a response which is designed to stop the harassment and ensure that similar harassment does not recur in the future towards other employees, including:

1. That Assemblymember Lopez be immediately removed as Chair of the Assembly Committee on Housing and that he not be appointed as the Chair of any other committee or to any leadership position;

2. That a letter of censure and admonition be issued publicly by the Speaker on behalf of the House, enumerating the findings of the Committee and indicating that Assemblymember Lopez's conduct with respect to this matter violates the Assembly's Policy and is inconsistent with the standards of conduct to which Members of the Assembly should be held;
3. That Assemblymember Lopez is not to have any interns placed or working in his Assembly offices and that he is not to have any employees under the age of 21 in his Assembly offices;
4. That any rights or privileges of seniority currently retained by Assemblymember Lopez be forfeited;
5. That Assemblymember Lopez's staff allocation be reduced in the amounts commensurate with the reassignment of the Complainants to other Assembly offices and not be replaced with new funding; and that his staff allocation be further reduced in the amounts commensurate with the compensation of any employee who leaves employment in his offices and not be replaced with new funding, and that such attrition process remain in effect until Assemblymember Lopez's staff allocation has been reduced to that of a first-term member; and
6. That supplemental sexual harassment training be provided to Assemblymember Lopez and his staff.

The Committee also recommends that the Policy and the sexual harassment training currently provided by the Assembly be reviewed and revised as appropriate.

The Committee makes the foregoing recommendations after due deliberation, mindful of the importance of this investigation to the Assembly, its Members and the People of the State of New York. We respectfully request that you act expeditiously to implement these recommendations.

Respectfully submitted,

Daniel O'Donnell

Chair

John J. McEnery

Michael Ishaq

Kevin A. Cahill

Baron

Ranking Minority Member

Janet L. Deprey

Joseph M. Giglio

Tom Jordan