

## Andrea Kwiatkowski

---

**m:** William Collins <collinsw@assembly.state.ny.us>  
**it:** Wednesday, August 29, 2012 3:51 PM  
**To:** 'Jonathan Rosen'; 'Michael Whyland'; 'James Yates'; 'Carolyn Kearns'  
**Subject:** RE: Section V of Assembly Sexual Harassment/Retaliation Policy

By law a "complaint" - we now know - can be conversation with anybody in management - not just Counsel's Office (which happened) and we did get a writing from another employee. There is too much aggressive finger-pointing and background noise here from Allred/Wang to flat out deny any "complaint". One flaw in our Policy is the written complaint requirement. The apparent legal flaw in our process was stopping everything to negotiate a settlement. It is true that our Policy doesn't envision any such process and we shouldn't have agreed to put the implementation of the Policy "on hold" indefinitely while another recourse was undertaken. The truth makes it too subtle to say "No complaint = no Ethics Committee"

---

**From:** Jonathan Rosen [mailto:Jonathan@berlinrosen.com]  
**Sent:** Wednesday, August 29, 2012 3:43 PM  
**To:** Michael Whyland; 'William Collins'; 'James Yates'; 'Carolyn Kearns'  
**Subject:** RE: Section V of Assembly Sexual Harassment/Retaliation Policy

Simpler to say only complaint we got was the ltr that was marked confidential from lawyer / could not turn that over – was no other complaint – or do you feel like that leaves us on shakey / unfactual ground.

Mike – I think it is worth a call on this and everything to see where we are.

---

**From:** Michael Whyland [mailto:whylandm@assembly.state.ny.us]  
**Sent:** Wednesday, August 29, 2012 3:40 PM  
**To:** 'William Collins'; 'James Yates'; Jonathan Rosen; 'Carolyn Kearns'  
**Subject:** RE: Section V of Assembly Sexual Harassment/Retaliation Policy

Maybe I can talk to him on background and explain the issue here?

---

**From:** William Collins [mailto:collinsw@assembly.state.ny.us]  
**Sent:** Wednesday, August 29, 2012 3:35 PM  
**To:** 'Michael Whyland'; 'James Yates'; 'Jonathan Rosen'; 'Carolyn Kearns'  
**Subject:** RE: Section V of Assembly Sexual Harassment/Retaliation Policy

I think there is subtlety here which is difficult to explain. Our policy - we now know, wrongly - requires a "written complaint" be filed with Counsel's Office. Instead of a "written complaint" or even any dialogue with the principle victim, Counsel's Office got a "cc" to an e-mail. We busted our ass to contact this person to see if they WANTED to interpose a complaint against a Member. Instead of dialogue OR any writing, we got a letter from her lawyer saying "we say harassment and retaliation happened, we say our clients aren't talking to you, we say we could sue you for big bucks, we are willing to discuss a confidential settlement; what do you want to do?". We agreed to negotiate a confidential settlement and we did. Counsel's Office didn't ever get a written complaint or even any conversation from this principle victim.

---

**From:** Michael Whyland [mailto:whylandm@assembly.state.ny.us]  
**Sent:** Wednesday, August 29, 2012 3:27 PM  
**To:** 'James Yates'; 'Jonathan Rosen'; 'William Collins'; 'Carolyn Kearns'  
**Subject:** FW: Section V of Assembly Sexual Harassment/Retaliation Policy

We need a call about this. Is everyone available?

---

**From:** Gormley, Michael [<mailto:MGORMLEY@ap.org>]  
**It:** Wednesday, August 29, 2012 1:28 PM  
**From:** Michael Whyland ([whylandm@assembly.state.ny.us](mailto:whylandm@assembly.state.ny.us))  
**Subject:** Section V of Assembly Sexual Harassment/Retaliation Policy

Section V of the policy states: "A complaint of sexual harassment and/or retaliation against a member of the Assembly shall be referred to the Assembly Standing Committee on Ethics and Guidance for Investigation."

Section IV notes complaints can go to the counsel unless they are governed by Section V. So avoiding the committee is based only an opinion of the counsel and Speaker? How can that overrule the policy, and how can it be "legally correct" as yesterday's statement says?  
Thanks.

Michael Gormley  
Capitol editor  
The Associated Press  
P.O. Box 7165, Capitol Station  
Albany, N.Y. 12244  
518-449-7131  
Cell: 518-527-6661  
Twitter: APgormley



Every day, more than half the world's population receives news from AP. AP serves 1,700 newspapers and 5,000 radio and television outlets in the United States as well as newspaper, radio and television subscribers internationally. Founded in 1846, the AP provides news in text, audio, video, graphics and photos to more than 15,000 news organizations.

The information contained in this communication is intended for the use of the designated recipients named above. If the reader of this communication is not the intended recipient, you are hereby notified that you have received this communication in error, and that any review, dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify The Associated Press immediately by telephone at +1-212-621-1898 and delete this email. Thank you.  
[IP\_US\_DISC]

msk dccc60c6d2c3a6438f0cf467d9a4938