



Legislation Text

File #: 180140, Version: 0

Amending Title 20 of The Philadelphia Code, entitled "Officers and Employees," Chapter 20-700, "Defense and Indemnification," by adding new language to provide protection for disclosures of sexual harassment and immunity for cooperation against sexual harassers, all under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Title 20 of The Philadelphia Code is hereby amended to read as follows:

TITLE 10. OFFICERS AND EMPLOYEES.

* * *

CHAPTER 20-700. DEFENSE, [AND] INDEMNIFICATION, *AND PROTECTION.*

* * *

§ 20-701. Definitions.

(1) *Disclosure.* A "disclosure" is a formal or informal, written or oral, communication or transmission.

(2) [(1)] *Officer or Employee.* An "officer" or "employee" is [A]any person who is elected or appointed to a position in any branch of the government of the City and/or County of Philadelphia or to any elected or appointed position which serves the City and/or County of Philadelphia including, but not limited to, members of agencies;[,] authorities-including the Philadelphia Parking Authority; boards and commissions-including the School Reform Commission and the Philadelphia School District-however elected or appointed; persons serving full-time or intermittently; persons serving with or without compensation.

(3) *Retaliatory Personnel Action.* For purposes of this Section of the Code, "retaliatory personnel action" shall include, but not be limited to:

- (a) a termination of employment;
- (b) a demotion;
- (c) a disciplinary or corrective action;
- (d) an unwanted detail, transfer, or reassignment;
- (e) a negative performance evaluation;
- (f) a negative decision concerning pay, benefits, or other compensation, or concerning education or training if the education or training may reasonably be expected to lead to an appointment, promotion, performance evaluation, or other action that would effect pay, benefits, or other compensation;
- (g) a decision to order psychiatric testing or examination;
- (h) the implementation or enforcement of any nondisclosure policy, form, or agreement; or

(i) *any other significant change in duties, responsibilities or working conditions.*

(4) *Sexual Harassment.* “*Sexual Harassment includes, but is not limited to, physical assaults of a sexual nature; unwelcome sexual advances, propositions, or other sexual comments; requests for sexual favors; offensive remarks about a person’s gender or sexual orientation; or sexually-related acts or comments that are so frequent or severe that they create a hostile or offensive work environment or result in the victim being subjected to negative personnel actions.*”

(5) [(2)] *Scope of Employment.* “*Scope of employment” refers to [A]acts performed incident to employment for which the officer or employee is hired or appointed and which it is his duty to perform.*”

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§ 20-703. *Protection for Disclosures of Sexual Harassment.*

(1) *Protected Conduct.* *Officers or employees who disclose what they reasonably believe to be sexual harassment of an officer or employee to the victim’s supervisor or Equal Employment Opportunity Officer; the Equal Employment Opportunity/Affirmative Action Unit of the City Office of Human Resources; the City Controller; the City Inspector General; the City District Attorney; or any person specifically designated now or in the future under The Philadelphia Code to receive such disclosures; shall not be subjected to retaliatory personnel actions for such disclosure during the time between the disclosure and the completion of the investigation based on that disclosure.*

(2) *Violation.* *No officer or employee shall violate this Section of the Code.*

(3) *Penalty.* *The penalty for a violation of this Section of the Code shall be permanent termination of the employment of the violator, except where the violator is an elected official. Where the violator is an elected official, the investigating entity shall without discretion refer the matter to the City District Attorney for possible criminal prosecution. Otherwise, where an investigation finds that there is a violation of this Section of the Code, the investigating entity may refer the matter to the City District Attorney for possible criminal prosecution where warranted.*

§ 20-704. *Immunity In Regard To Sexual Harassment.* *In addition to the protections offered under Section 20-703, immunity from prosecution or the imposition of sanctions for sexual harassment may be offered to any officers or employees who cooperate in investigations, prosecutions, and sanctionings against other officers and employees for sexual harassment.*

SECTION 2. *Effective Date.* This Ordinance shall take effect immediately.

Explanation:

[Brackets] indicate matter deleted.

Italics indicate new matter added.

