

From: Julie Tappendorf (jtappendorf@ancelglink.com)
To: Deirdre Brennan (dee.brennan@railslibraries.info)
December 11, 2017

Below is a blog post I wrote discussing the new law requiring units of local government to formally adopt a sexual harassment policy that complies with the statute by either ordinance or resolution. Ancel Glink has been working with its clients to (1) review their existing sexual harassment policy and recommend changes to meet the requirements of the new law and (2) prepare an ordinance or resolution for their public body to adopt the updated policy.

In reviewing a number of our clients' current policies, most of them have the basic requirements of the new law already incorporated into the policy, although most have needed a few "tweaks." For example, most of the policies need to be updated to expressly reference the availability of remedies under the Whistleblowers Act for retaliation actions. What we have found almost universal, however, is that public bodies have not previously adopted their sexual harassment policies by ordinance or resolution as required by the new law. So, in order to meet the statutory requirements, a public body such as a library board will need to prepare a resolution or ordinance to adopt the updated policy and schedule that for action by January 16, 2018 (since January 15 is a state holiday).

A library board can only take action at a meeting open to the public. So, adopting this by email or some other form would constitute a violation of the Open Meetings Act. We encourage library boards and other units of local government to have their sexual harassment policies reviewed by a lawyer to make sure they include the statutory requirements and to prepare an approving ordinance or resolution (most of our clients are using a resolution) to approve that policy.

It is not clear from the statute what the penalty would be for non-compliance if a library board fails to take action by the deadline. [From a follow-up email message: There isn't a penalty in the law, and I suspect there will be a lot of units of government who pass this after the deadline.] To the extent possible, they should try to schedule this for action before January 16. If a unit of government misses the deadline because they don't have a regular meeting before January 16 and cannot schedule a special meeting, the public body should schedule action as soon as they can to become compliant.

I encourage libraries to discuss this with their regular library attorney or a special counsel attorney to assist them in complying with this new law. [Remainder of email message edited out.]

Julie A. Tappendorf, Partner
Ancel Glink Diamond Bush DiCianni & Krafthefer
jtappendorf@ancelglink.com
www.ancelglink.com

Referenced blog post:

Local Governments Must Formally Adopt Sexual Harassment Policies

<http://municipalminute.ancelglink.com/2017/11/local-governments-must-formally-adopt.html>