



The Pennsylvania Interbranch Commission for Gender, Racial and Ethnic Fairness

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March 12, 2020

The Honorable Garth D. Everett
Chair, House State Government Committee
400 Irvis Office Building
PO Box 202084
Harrisburg, PA 17120-2084

RE: Supporting Passage of HB 1000, #MeToo in Pennsylvania General Assembly Act

Dear Chairman Everett,

On behalf of the Pennsylvania Interbranch Commission for Gender, Racial and Ethnic Fairness (“Interbranch Commission” or “Commission”), we write to you to convey our support for passage of House Bill (“HB”) 1000. As you know, if passed, HB 1000 would establish internal complaint procedures for legislative employees to report instances of workplace sexual harassment and to seek redress for having experienced such harassment. Since April 2, 2019, HB 1000 has been in the State Government Committee for consideration. However, to date, the Committee has neither convened a hearing on nor reported on this bill. For the reasons that follow, we respectfully urge the State Government Committee to consider HB 1000 and take the appropriate measures to move it through Committee, facilitating its passage.

By way of background, the Interbranch Commission was established in 2005 by the three branches of Pennsylvania’s government to implement the recommendations from a Pennsylvania Supreme Court study on racial and gender bias in the justice system. The final report from the study was completed in 2003, and contained chapters on fourteen topics, including Perceptions and Occurrences of Racial, Ethnic, and Gender Bias in the Justice System, among other topics of inquiry.¹ In this chapter, the study researchers recounted numerous reports from court users, attorneys, judges, and court personnel of being subjected to sexual harassment when they performed their jobs or otherwise participated in the justice system. On the basis of this and other extensive evidence, the study concluded that sexual harassment is a pervasive problem in Pennsylvania and must be addressed. Consequently, the Commission drafted the Pennsylvania Unified Judicial System (“UJS”) Policy on Non-Discrimination and Equal Employment Opportunity, which, *inter alia*, prohibits judicial officers, court personnel, related staff, and

¹ See Final Report of the Pennsylvania Supreme Court Committee on Racial and Gender Bias in the Justice System (2003), <http://www.pa-interbranchcommission.com>.

attorneys from engaging in sexual harassment in a court facility and established complaint procedures for reporting such harassment. The Pennsylvania Supreme Court approved and adopted this Policy in 2008, and it remains in effect for all judicial districts in Pennsylvania today.

² The Commission also drafted Rule 2.3 of the Pennsylvania Code of Judicial Conduct, prohibiting judges from engaging in sexual harassment in the performance of their official duties.³ Consistent with our Mission Statement to, “suggest ways to reduce or eliminate such bias or invidious discrimination within all branches of government and within the legal profession[] and increase public confidence in the fairness of all three branches of government in the Commonwealth of Pennsylvania[,]” we now advocate for passage of HB 1000.

Since the #MeToo movement’s genesis, the number of workplace sexual harassment complaints filed with federal and state administrative agencies charged with investigating such complaints has risen markedly. For example, in 2018, the U.S. Equal Employment Opportunity Commission (“EEOC”) reported that it received 7,609 sexual harassment charges, a 13.6% increase from FY 2017, and obtained \$56.6 million in monetary benefits for sexual harassment victims.⁴ The #MeToo movement has also resulted in at least 76 state legislators across the country being publicly accused of, or facing repercussions over sexual misconduct claims. This figure includes three current or former Pennsylvania state legislators.⁵

Despite this recent increase in reported workplace sexual harassment, however, many cases still go unreported, including those experienced by individuals employed by the Pennsylvania legislature. In October 2019, the Commission learned that female legislative aides and staffers have been sexually harassed by legislators, lobbyists, and co-workers. Some even refuse to use the elevators in the Pennsylvania State Capitol Complex without a trusted companion, for fear that they will be subjected to the same conduct. Passing HB 1000 would serve to alleviate female legislative employees’ fears of being sexually harassed at work by: (1) deterring legislative officials and employees from sexually harassing staff and colleagues and (2) providing victims with a clear-cut procedure for reporting and holding their harassers accountable.

² The UJS Policy on Non-Discrimination and Equal Employment was amended by the Supreme Court of Pennsylvania in 2013 and 2016, respectively. We have enclosed the most current version of the Policy with this letter.

³ This Rule was adopted by the Pennsylvania Judicial Conduct Board in 2014 and became binding on all state appellate and common pleas judges on July 1, 2014. We have also drafted prior versions and commented on proposed Rule 8.4(g) of the Pennsylvania Code of Professional Conduct, which would declare it professional misconduct for attorneys to engage in sexual harassment in the practice of law.

⁴ Press Release, EEOC, EEOC Releases Fiscal Year 2018 Enforcement and Litigation Data (Apr. 10, 2019), <https://www1.eeoc.gov/eeoc/newsroom/release/4-10-19.cfm?renderforprint=1>.

⁵ *Sexual Misconduct Claims in State Legislatures Since 2017*, ASSOCIATED PRESS (Aug. 26, 2018), <https://apnews.com/2ed7d10fcea14efdaf5b668cdbe450f1/Sexual-misconduct-claims-in-state-legislatures-since-2017>.

Passage of HB 1000 would also promote consistency among the Houses of the General Assembly and the three branches of state government. On January 1, 2019, the House of Representatives adopted House Rule 2.1E, prohibiting House members from engaging in sexual harassment.⁶ The Senate, however, does not have a Senate Rule explicitly prohibiting Senate members from engaging in sexual harassment.⁷ HB 1000 would explicitly prohibit elected legislators in both Houses and other legislative employees from engaging in workplace sexual harassment, and would provide a uniform internal process by which sexual harassment complaints may be filed and investigated. Similarly, passage and enactment of HB 1000 would bring the General Assembly in line with the Pennsylvania Judicial and Executive Branches, which have already adopted policies proscribing workplace sexual harassment and established internal procedures for receiving and responding to sexual harassment complaints.⁸

The Commission also respectfully recommends that the language of Section 2113(c)(1) of HB 1000 be amended in the following manner:

An employee may file a complaint under section 2114 (relating complaint and hearing) or a civil action **with a government agency or commission charged with enforcing laws relating to sex discrimination or with a court of competent jurisdiction**, without exhausting administrative remedies available under this chapter.⁹

This amendment would be consistent with state and federal law allowing employees to file sexual harassment claims with the Pennsylvania Human Relations Commission (“PHRC”) and the EEOC.¹⁰

⁶ See House Rule 2.1E (2019-2020).

⁷ *But see e.g.*, Senate Rule 34(c) (2019-2020) (stating that the Senate Committee on Ethics “shall receive complaints against any senator alleging unethical conduct in violation of a Senate Rule, statute or constitutional provision governing the ethical conduct of a Senator”). Title VII of the Civil Rights Act of 1964 and the Pennsylvania Human Relations Act (“PHRA”) prohibit workplace sexual harassment.

⁸ See UJS Policy on Non-Discrimination and Equal Employment, *supra* note 2. See also Exec. Order No. 2016-04 (2016) (declaring that workplace sexual harassment in Pennsylvania’s Executive Branch is prohibited and establishing branch-wide internal sexual harassment and workplace discrimination complaint and review procedures). For reference, we have also enclosed Executive Order 2016-04 to this letter.

⁹ Amended language in bold.

¹⁰ See *e.g.*, Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e-4 - 2000e-9; PHRA, 43 P.S. §§ 951-963.

In closing, we urge the State Government Committee to review HB 1000 and take the appropriate measures to facilitate its passage. We would welcome the opportunity to provide testimony regarding this bill should the Committee convene hearings thereon. If you have any questions concerning this matter, we would be happy to discuss them at your convenience.

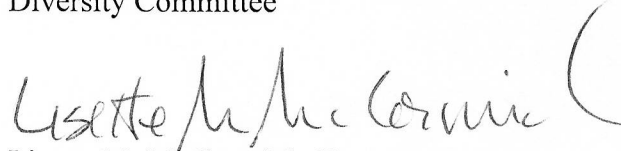
Respectfully,



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Chair, Domestic Violence and
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Lisette M. McCormick, Esq.
Executive Director

cc: Hon. Kevin J. Boyle, Democratic Chair of the House State Government Committee
Members of the House State Government Committee
Pennsylvania Interbranch Commission Members
Equal Opportunity and Diversity Committee Members
Domestic Violence and Sexual Assault Victims' Committee Members
PBA Commission on Women in the Profession
Allegheny County Bar Association Women in the Law Division
Women's Law Project
YWCA Greater Pittsburgh
Chatham University Women's Institute
Chatham University Pennsylvania Center for Women & Politics
Women's Bar Association of Western Pennsylvania