

Dina Berlyn's testimony for JCLM hearing on sexual harassment policy
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April 16, 2018

Good morning and thank you for addressing the critical issue of gender equity at the Connecticut General Assembly.

There are several issues that I want to address that I have not given as much attention as I believe they deserve. I have a lot of thoughts on these issues and I would be glad to share more details with you... but below are a few suggestions for moving forward.

In the current national atmosphere that is finally attempting to address decades of wretched, problematic and in some instances criminal behavior, the discussion too often addresses only **two legs of a three legged stool**. The Me Too# movement is generally focused on **assault** and **harassment**. Very little is being heard about **discrimination**. Under federal law **sexual harassment is a form of sexual discrimination**. One reason that harassment persists is that discrimination allows society (and thus the workplace) to devalue women. (see Lilly Ledbetter op-ed <https://www.nytimes.com/2018/04/09/opinion/lilly-ledbetter-metoo-equal-pay.html>). Women are devalued (among other ways) by being paid less than men with the same credentials doing the same work. Women are devalued when they complain about egregious behavior or discrimination and their complaints are ignored or **worse used against them**. They are devalued when they are denied positions in the corridors of power. Often the reasons given for these denials of advancement are not gender but in truth gender is a factor that is not stated.

The **Connecticut General Assembly should be a leader and address all three legs of this stool**. It should not only update its sexual harassment policy, it should do a detailed evaluation of gender equity at the legislature. This evaluation should look at trends for the last 20 years. This is easy; the salary numbers are available. The study should also evaluate racial discrimination and look at the pay gap for women as well as whether the pay gap is also influenced by race. The study should examine each office individually and determine if the data from some offices show either institutional or intentional discrimination. This would allow office specific correction plans.

The fact that there have been so few formal complaints does NOT indicate that there is no harassment problem; it indicates that the system for reporting discrimination (including harassment) is broken. When the reporting mechanism is internal the set up is the employee versus the entire General Assembly. If the employee complains internally the person she (or he) is complaining to has a primary loyalty to the institution. If the complainant goes a step further and retains counsel and goes to settlement talks the complainant and her (or his) attorney will be in one room and every person involved from CGA will be in the other room (even people who seemed sympathetic to the case). So essentially the employee is reporting the harassment to the adversarial party. This is a bad system. One key in creating an updated policy is that **there must be an outside entity to take complaints**. The complainant should be able to decide if her/his discussion with the outside entity should remain anonymous. **Of course there must also be due process protection for the alleged perpetrator**.

The General Assembly has certain unique features in that it has numerous persons who are not employees but who do consider the legislature their workplace. These include lobbyists and activists among others. These persons are not protected by labor law but this does not mean that they are not subject to discrimination, harassment and worse. The currency of lobbying/activism is access; this makes them sitting ducks for predators. The General Assembly must create a system that protects all persons who do any business with the legislature from predatory behavior. The outside reporting system should be available to all who do business with the General Assembly.

Not all discrimination/harassment cases are the same and responding to every case in the same manner serves no one's best interest. The system must be fair to all. Some behavior should land the perpetrator in jail, some behavior should get the perpetrator fired, and some should result in a reprimand with additional scrutiny of future behavior. Which behaviors fall into which categories must be made very clear in the policy. This is important for the claimant and for the alleged perpetrator. Not only do perpetrators have due process rights but some claimants are more likely to come forward if they know the system will be fair (a claimant may not speak out if the claimant fears that the perpetrator may be fired for what should not be a fireable offense).

Non-disclosure/confidentiality clauses must be disallowed in any settlement agreement between CGA employees and the General Assembly. These clauses allow bad (and possibly criminal) behavior to remain undetected. That may serve the reputation of the institution but it does not serve the public interest nor the interest of the person who was subject to discrimination, harassment, or abuse.

Lastly, General Assembly also must be careful about how it selects its training. The majority of sexual harassment trainings in the workplace are far more concerned with reducing employer liability than with ending harassment; many classes do not contain the types of training that have been shown to be effective. The classes should be focused on evidence based training that works with inclusion of topics such as training the bystander (<https://www.nytimes.com/2017/12/11/upshot/sexual-harassment-workplace-prevention-effective.html> *Sexual Harassment Training Doesn't Work. But Some Things Do.*).

I urge you to move forward with these four steps:

1. Define the problem
2. Get the data
3. Create the solution
4. Continue to monitor the problem

Thank you