



August 31, 2012

The Honorable Sheldon Silver  
Speaker, New York State Assembly  
250 Broadway, Room 2301  
New York, NY 10007

VIA EMAIL

Dear Speaker Silver,

Citizens Union commends you for censuring Assemblymember Vito Lopez by stripping him of his chairmanship and other privileges of seniority in the Assembly, as recommended by the Assembly Ethics and Guidance Committee. In doing so, the Assembly made clear that there will be consequences and accountability for reprehensible and potentially illegal conduct by a member of the Assembly.

We are, however, troubled by the earlier and separate claims of sexual harassment made by two complainants against Mr. Lopez that were not referred to the Ethics and Guidance Committee, and instead resulted in a settlement negotiated by your office involving \$103,000 in public funds. As you indicated on August 28<sup>th</sup> in a public statement, this was the wrong approach and we agree with your assessment that all settlements the Assembly makes should be made public while protecting the identity of the victims. While we appreciate the change to the Assembly's process announced recently that will prevent the use of secret settlements prospectively, Citizens Union shares your belief that it is important that the Joint Commission on Public Ethics (JCOPE) investigate the recent settlement related to Mr. Lopez, and have written a letter to JCOPE making that request (see attached). A member or employee of the Assembly should not have the ability to circumvent the Ethics and Guidance Committee or JCOPE under any circumstance for complaints coming under their jurisdiction. Secret deliberation and resolution of legitimate ethics complaints of this severity have no place in a transparent democracy.

Citizens Union also thinks the Assembly on its own should go further in bringing greater transparency to the settlement involving Mr. Lopez. Citizens Union calls on the Assembly to make known to the public any and all formal and informal communications, documents, actions, proceedings and decision-making related to the secret settlement pertaining to the allegations of sexual harassment against Mr. Lopez, but for those materials or provisions thereof that the complainants would have an expectation of or have made a specific request for privacy.

Beyond making transparent deliberations and decision-making in the Lopez sexual harassment settlement, the Assembly should make known the role of the Ethics and Guidance Committee by making widely and publicly available:

- the powers and responsibilities of the committee;
- the types of complaints and referrals the Ethics and Guidance Committee is authorized to handle;
- processes for making complaints or referrals;
- procedures for addressing complaints and timelines for their adjudication; and
- the role of the committee in sharing information with other agencies like the Joint Commission on Public Ethics (JCOPE), the Office of the Inspector General, the Attorney General's Office, local District Attorneys and other entities that may have concurrent jurisdiction over matters addressed by the committee. We specifically call on the Assembly to explain why the committee did not immediately refer the sexual harassment allegations against Mr. Lopez or later findings of the committee to JCOPE for investigation into possible violations of the public officers law, most notably §74(3) of the Public Officers Law.

The Assembly's website listing the Ethics and Guidance Committee<sup>1</sup> is devoid of any relevant information about its recent work, containing only a 2009 hearing notice. The Assembly Rules are also lacking information, revealing only the composition of the committee and the requirement that ethics training be developed by the committee for Assembly members and employees. We know of no specific or direct mention in the Laws of New York of the role of the Ethics and Guidance Committee.

We thank the Assembly for its recent announcement of a change to its policy in making more transparent legal settlements made by the Assembly. We welcome your support for a JCOPE investigation and consideration of the additional transparency measures laid out in this letter.

Sincerely,



Dick Dadey  
Executive Director

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<sup>1</sup> See: <http://assembly.state.ny.us/comm/?sec=post&id=16>