

New York City and State Pass Expansive Anti-Sexual Harassment Legislation

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Employers in New York City and New York State will be required to conduct mandatory sexual harassment training and take other steps designed to prevent sexual harassment in the workplace in response to new legislation passed by the City and the State.

New York City

On April 11, 2018, the New York City Council passed the Stop Sexual Harassment in New York City Act, which is expected to be signed promptly by Mayor de Blasio. The law requires employers with 15 or more employees to provide sexual harassment training to new employees after 90 days of employment and to continue to provide interactive sexual harassment training to all employees on an annual basis. The training must at a minimum do the following:

- Explain that sexual harassment is a form of unlawful discrimination under local, state and federal law
- Describe and provide examples of sexual harassment
- Provide information on internal complaint processes
- Provide information on the complaint process available through the New York City Commission on Human Rights and the United States Equal Employment Opportunity Commission, including contact information
- Provide examples and information on the prohibition on retaliation
- Provide information on bystander intervention
- Provide the specific responsibilities for preventing sexual harassment and retaliation of supervisory and managerial employees

The law also requires employers to keep a record of training and signed acknowledgment of attendance for three years. Employers may maintain the acknowledgment electronically. Further, it allows new employees to carry over training from one employer to another. Employers must implement a training program before April 1, 2019.

Every employer must also display an anti-sexual harassment rights and responsibilities poster, as well as provide an information sheet on sexual harassment to new hires. The poster and information sheet will be created by the New York City Commission on Human Rights and be available to employers on the Commission's website. These requirements will take effect 120 days after the law is signed.

Finally, the law also expands the protection of the New York City Human Rights Law prohibiting sexual harassment to employers with fewer than four employees and lengthens the statute of limitations for filing harassment claims from one to three years.

New York State

In lockstep with the City, the following day Governor Cuomo signed into law the New York State Legislature's anti-sexual harassment legislation in its 2019 budget. Similar to the City law, employers are required to provide annual sexual harassment training. The training program must be interactive and at a minimum contain:

- An explanation of what constitutes sexual harassment
- Examples of conduct that would constitute unlawful harassment
- Information on state and federal laws concerning sexual harassment and remedies available to victims
- Information on employees' rights and all available forums for adjudicating complaints administratively and judicially

Employers must also implement a policy on sexual harassment, which at a minimum must:

- Prohibit sexual harassment and provide examples of conduct that would constitute unlawful sexual harassment
- Include information concerning the federal and state laws concerning sexual harassment, the remedies available to harassment victims, and a statement that there may be applicable local laws
- Include a standard complaint form and procedure for a timely and confidential investigation of complaints
- Inform employees of their rights of redress and all available forums for adjudicating sexual harassment complaints administratively and judicially
- State that sexual harassment is considered a form of employee misconduct and that sanctions will be enforced against individuals engaging in sexual harassment and against supervisory and managerial personnel who knowingly allow such behavior to continue
- State that retaliation against individuals who complain of sexual harassment or who testify or assist in any proceeding under the law is unlawful

The requirements to implement the training and distribute the policy will be effective October 9, 2018.

The State's budget also includes several other measures to combat sexual harassment, including:

- Effective immediately, allowing employer liability for sexual harassment of non-employees, including contractors, subcontractors, vendors, consultants or other individuals providing services under a contract in the workplace
- Effective July 11, 2018, prohibiting nondisclosure clauses in agreements to settle claims relating to sexual harassment, unless the complaining party desires confidentiality and is provided 21 days to consider any such clause and a 7 day revocation period
- Also effective July 11, 2018, prohibiting mandatory arbitration for sexual harassment claims, unless such arbitration clauses are contained in collective bargaining agreements
- Effective January 1, 2019, requiring entities bidding on state contracts to affirm that they have a written sexual harassment policy and that they provide annual sexual harassment training to their employees

Both the City and the State intend to publish model policies and training modules, along with other materials, that employers can use as a guide when establishing or updating their own policies, programs and other materials.

This summary provides only a brief overview of the changes that will go into effect. In response to this myriad of new requirements and the accompanying deadlines, New York employers should begin reviewing their existing training programs and policies, as well as any relevant agreements, and be prepared to make any necessary modifications.

Please contact [Jason Habinsky](#) if you need further information.