

New Sexual Harassment Prevention Laws Apply to All New York State and New York City Employers

Insights

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New York City

The Stop Sexual Harassment in NYC Act (the “Act”), a comprehensive package of legislation aimed at combating sexual harassment in the workplace and strengthening New York City’s existing anti-sexual harassment laws, was signed into law by Mayor Bill de Blasio on May 9, 2018.

The Act results in the following significant changes in New York City’s sexual harassment law:

- Amends the existing New York City Human Rights Law’s (NYCHRL) provisions to make it clear that sexual harassment is a form of prohibited gender discrimination and that the law will apply to all employers, regardless of the number of employees.
- Requires all employers in New York City, regardless of size, to display an easy-to-understand anti-sexual harassment rights and responsibility poster, which will be designed and made available soon by the New York City Commission on Human Rights (“CCHR”), and must be displayed by September 6, 2018.
- Requires all employers to also distribute an information sheet to all employees about sexual harassment; this sheet will also be developed by the CCHR soon, covering the same information as the posting, and must be provided to all employees in New York City by September 6, 2018.

- Requires employers with 15 or more employees to provide annual interactive anti-sexual harassment training for all of its employees who work more than 80 hours in a year and are employed in New York City within one year of the law's effective date, Sept. 1, 2018, and with specified approaches and topics covered.
- Requires training specifically focused on educating supervisors and managers regarding their responsibilities under relevant law.
- Requires signed acknowledgment of attendance at such training sessions (electronic acknowledgement is sufficient) and these attendance records must be maintained for three years.
- Imposes civil penalties on employers that do not maintain records reflecting their compliance with these training requirements.
- Extends the statute of limitations period under which employees may assert claims of gender-based harassment with the CCHR from the current one-year period to three years from the time of the alleged conduct.

New York State

In lockstep with New York City's new sexual harassment law, Governor Cuomo signed into law the New York State Legislature's anti-sexual harassment legislation in the state's 2019 budget.

Similar to the Act, New York employers are required to provide annual anti-sexual harassment training that must be interactive and contain specified topics. 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.

Both [New York City's Commission on Human Rights](#) and the [State of New York's Division of Human Rights](#) intend to publish model policies and training modules, along with other materials, that employers may use as a guide when establishing or updating their own policies, programs and other materials.

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

- **Effective immediately**– Expanded protections against sexual harassment under the New York State Human Rights Law to “non-employees,” including contractors, subcontractors, vendors, consultants, and other persons providing services pursuant to a contract.
- **Effective July 11, 2018**– Prohibitions on the use of nondisclosure clauses in settlements or agreements relating to claims of sexual harassment, unless the condition of confidentiality is the preference of the complainant, as well as prohibitions on mandatory arbitration clauses for claims of workplace sexual harassment.
- **Effective October 9, 2018**– Mandatory distribution of written anti-harassment policies in the workplace and annual anti-harassment training for all employees, both based on models to be developed and published by the New York State Department of Labor and Division of Human Rights.
- **Effective January 1, 2019**– Requirement that bids on certain state contracts contain language affirming that the bidding entity has implemented a written policy addressing sexual harassment in the workplace and that it provides annual sexual harassment prevention training to all of its employees.

The practical effect of these new State and City laws is to impose upon employers the duty to take specific steps to create and maintain a workplace free of sexual harassment — steps that many employers are already taking by providing training to their employees on a regular basis, developing clear policies and addressing incidents of discriminatory or harassing conduct when they occur.

Employers should work with Gunderson Dettmer's employment attorneys to ensure that they are fully complying with these new sexual harassment prevention laws.

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