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New Guidelines from New York and NYC Anti-Sexual Harassment Laws

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In response to increasing awareness that sexual harassment in the workplace is not only unlawful but also harmful to employees and should be addressed with prompt, effective, remedial measures, the State of New York and New York City have both led by example and passed laws that require all employers to take steps to prevent workplace sexual harassment.

The most recent New York State Budget, passed on April 12, 2018, included a sweeping reform of expanding sexual harassment protection to not only employees but also contractors, subcontractors, vendors, consultants or others providing services in the workplace. Under the Prevention of Sexual Harassment, [NY CLS Labor § 201-g](#), every employer in the State of New York is required to establish a sexual harassment prevention policy that must: 1) prohibit sexual harassment consistent with the guidance issued by the Department of Labor in consultation with the Division of Human Rights; 2) provide examples of prohibited conduct; 3) include information concerning the federal and state statutory provisions concerning sexual harassment, remedies available to victims of sexual harassment, and a statement that there may be applicable local laws; 4) include a complaint form; 5) include a procedure for the timely and confidential investigation of complaints that ensures due process for all parties; 6) inform employees of their rights of redress and all available forums for adjudicating sexual harassment complaints administratively and judicially; 7) clearly 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; and 8) clearly state that retaliation against individuals who complain of sexual harassment or who testify or assist in any investigation or proceeding involving sexual harassment is unlawful.

Employers may continue to use their current policies as long as the above-mentioned policy requirements are met. However, if an employer does not already have a policy in place they may use the State provided [model policy form](#) by filling in the relevant

information relating to their business. A [model complaint form](#) is available from the New York State Department of Labor and Division of Human Rights. The policies must be provided to all current employees by October 9, 2018, and should be provided to all future new employees before they start working.

The new requirements also mandate annual training for all employees, including supervisors and managers. The training must be: 1) interactive; 2) include an explanation of sexual harassment consistent with the guidance issued by the Department of Labor in consultation with the Division of Human Rights; 3) include examples of unlawful sexual harassment; 4) include information concerning the federal and state statutory provisions concerning sexual harassment and remedies available to targets of sexual harassment; 5) include information concerning employees' rights of redress and all available forums for adjudicating complaints; and 6) include information addressing conduct by supervisors and additional responsibilities for supervisors.

Employers may continue to use their existing training as long as the listed requirements are met. For employers that do not have training already in place the State has also provided [model training materials](#) online. While all new employees should be trained as quickly as possible, the law requires that all current employees must be trained by October 9, 2019.

Following in the State's footsteps, New York City also sought to protect its residents from sexual harassment in the workplace. On May 9, 2018, New York City Mayor Bill de Blasio signed the Stop Sexual Harassment Act ("Act"), Local Law 96 Of The City Of New York For The Year 2018. This law expanded protection from sexual harassment to all New York City employees and interns. This expansion requires that by September 6, 2018 all employers in New York City post the New York City Commission on Human Rights ("Commission") anti-sexual harassment poster in a visible location and provide this information to all employees when they are hired.

The Act also requires employers with 15 or more employees to provide annual anti-sexual harassment interactive training, to all employees, including interns as well as supervisors and managers. The training is required after 90 days of the initial hire of employees who work more than 80 hours in a calendar year on a full-time or part time basis.

The training must include at a bare minimum the following: 1) an explanation of sexual harassment as a form of unlawful discrimination under local law; 2) a statement that sexual harassment is a form of unlawful discrimination under state and federal law; 3) a description of what sexual harassment is, using examples; 4) any internal complaint process available to employees through their employer to address sexual harassment claims; 5) the complaint process available through the Commission, the Division of Human Rights, and the United States Equal Employment Opportunity Commission, including contact information; 6) the prohibition of retaliation and examples of; 7) information concerning bystander intervention, including any resources that explain how to engage in bystander intervention; 8) the specific responsibilities of supervisory and managerial employees in the prevention of sexual harassment and retaliation, and measures that such employees may take to appropriately address sexual harassment complaints. Finally, employers must keep a record of all trainings, including a signed employee acknowledgment, which may be electronic, for at least three years. These records must be made available for inspection at the request of the Commission. The training requirements begin on April 1, 2019. The Act further requires that the Commission develop an online interactive training module that may be used to satisfy these new requirements. The interactive training module is to be made publicly available on the Commission's website.

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Employers may request additional information about New York and NYC's laws by contacting Wong Fleming at (212) 643-9668.

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