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LEGAL UPDATE | New York State and New York City Mandate Sexual Harassment Policies and Trainings

In April 2018, Governor Cuomo of New York signed a set of laws aimed at combating sexual harassment in the workplace. New York employers must (1) provide all employees with written policies describing employee protections against sexual harassment and (2) conduct annual sexual harassment prevention trainings with all employees.

Policies: At a minimum, employers must provide policies in the language spoken by the employees and the policies must:

- Prohibit sexual harassment;
- Explain and provide examples of unlawful sexual harassment;
- Clearly state that sexual harassment is considered employee misconduct and that sanctions/progressive discipline will be enforced against individuals engaging in sexual harassment and against supervisory/managerial employees who knowingly allow such behavior to take place/continue;
- Discuss federal, state, and local law protections and remedies available for victims of sexual harassment;
- Include an internal complaint form;
- Describe the employer's policy for investigating of complaints;
- Inform employees about their rights of redress and external remedies, such as administrative and judicial remedies; and
- 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.

Trainings: Starting **October 9, 2018**, employers must annually provide interactive sexual harassment prevention trainings to all employees. Employers must complete the first round of trainings by **January 1, 2019**.

Employers should provide trainings in the language spoken by the employees. At a minimum, trainings must:

- Be interactive, engage the employees and allow opportunities to participate;
- Explain and provide examples of behavior that constitutes unlawful sexual harassment;

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- Discuss federal, state, and local law protections and remedies available for victims of sexual harassment;
- Inform employees of their rights of redress and external remedies, such as administrative and judicial remedies; and
- Address conduct by supervisors/managers and any additional responsibilities for supervisors/managers.

Arbitration Agreements: Finally, the new laws also include a provision that prohibit sexual harassment claims from being subject to arbitration agreements. Arbitration provisions in collective bargaining agreements are exempt from this provision.

Are you in New York City? New York City recently passed a similar set of laws requiring employers to post a sexual harassment rights and responsibilities poster in [English](#), [Spanish](#), and other languages spoken by employees by **September 6, 2018**. Also, as of **September 6, 2018**, employers must provide all new employees with information about sexual harassment protections in the workplace, such as this fact sheet in [English](#) and [Spanish](#) developed by the New York City Human Rights Commission (NYCHRC), or a handbook policy containing the same information.

The training provisions in the state and local laws are mostly similar; however, local NYC laws require employers to discuss “bystander” intervention in harassment situations. Additionally, employers will be required to keep records of trainings for three years. Records should include a signed employee acknowledgement of receipt of training. The training provisions of the NYC’s laws go into effect on **April 1, 2019**.

The following chart summarizes the similarities and differences between the training provisions of the New York state and New York City local laws.

Interactive Training Content	New York State (in effect 10/9/2018)	New York City (in effect 4/1/2019)
Define & provide specific examples of sexual harassment	Yes	Yes
Explain federal and state law protections and remedies	Yes	Yes & NYCHRC laws
Explain employee rights of redress and remedies for victims	Yes	Yes
Inform employees about external forums for adjudicating complaints	EEOC & NYDHR	EEOC , NYDHR , & NYCHRC

Discuss “bystander” intervention	No	Yes
Explain the responsibilities of supervisory and managerial employees	Yes	Yes
Define & provide specific examples of retaliation	No	Yes

If you have any questions about sexual harassment or other anti-discrimination policies, trainings, or arbitration agreement provisions, please do not hesitate to reach out to us at Stokes Wagner.