

New Sexual Harassment Laws for New York Now In Effect

Prepared by:
Matthew T. Anderson
Troutman Sanders LLP

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New Sexual Harassment Laws for New York Now In Effect

*Written by **Matt Anderson** – 10/16/18*

[Troutman Sanders LLP](#)

With the continued rise of the #MeToo movement, New York has taken the reins as one of the leaders in combating sexual harassment in the workplace. All employers who have employees located in New York state must now provide sexual harassment training to all employees at least once a year. New York joins California, Connecticut, Delaware, and Maine as states requiring sexual harassment training. This requirement applies to employers of all sizes, and employers must train all employees (not just supervisors).

In addition to this new state requirement, New York City has enacted a law called the “Stop Sexual Harassment in NYC Act,” which goes into effect on April 1, 2019. This law also requires sexual harassment training, but mandates that certain content be addressed. The new law goes beyond what any previous sexual harassment training laws require by requiring employers to:

- Address bystander intervention
- Describe the complaint process available through the City’s Commission on Human Rights, the State Division of Human Rights, and the EEOC
- Provide the contact information for all three agencies.

Unlike the state law, this in-depth training is only required for employers of 15 or more employees, and the only employees who must be trained are those who work more than 90 hours per calendar year in New York City. Additionally, the law requires all new employees who work 80 or more hours per year to be trained within 90 days of hire. The state law only encourages prompt training. Also, unlike the state law, the NYC law requires employers to keep records of all sexual harassment training for at least three years, including a signed employee acknowledgment of such training. Lastly, both the state and city law require the training to be “interactive,” meaning that employees must participate in some manner. For example, if the training is web-based, then there must be a quiz at the end the employee must pass.

At this time, only New York State has created a model training document. New York City is still developing its model training but has made it clear that this will be a bare minimum threshold. In practical terms, employers are much better off hiring experts to develop a comprehensive training that will safely satisfy both state and city law.

Lastly, New York State has updated a few other laws related to sexual harassment. First, the State now prohibits the inclusion of non-disclosure agreements (“NDAs”) in the settlement of sexual harassment claims, unless the alleged victim prefers one. If the alleged victim asks to have an NDA, then he or she has 21 days to consider the NDA and seven days to revoke it after it is signed. New York State now also prohibits requiring employees to arbitrate sexual harassment claims. (It is, however, unclear whether this prohibition is invalid due to the Federal Arbitration Act.) The State has also expanded coverage of protection from sexual harassment to include

non-employees like contractors, subcontractors, vendors, or consultants. Finally, New York State now requires employers to post employee anti-sexual harassment rights and responsibilities in English and Spanish, and provide, at the time of hire, a sexual harassment fact sheet to all new employees.

We anticipate that more and more states and localities will follow New York's lead in taking efforts to prevent sexual harassment in the workplace. Our Labor and Employment team can help your business both adapt to the new laws and get ahead of the curve to prevent the need for changes to your sexual harassment training and policy in the future, preventing fire drills when new laws are enacted, and further reducing the risk of litigation and disruptive harassment claims.

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