

EMPLOYMENT LAW ALERT



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New York State and New York City Enact Sexual Harassment Requirements

In response to the #MeToo movement, both New York State and the City of New York have enacted a package of laws aimed at addressing and combatting sexual harassment in the workplace. Earlier this year, Governor Andrew Cuomo signed into law the 2018-2019 New York State Budget which included new state requirements for employers with regards to sexual harassment. In particular, effective October 9, 2018, all New York employers -- no matter their size -- must adopt a sexual harassment prevention policy and provide sexual harassment training to employees. Recently, the state released draft guidance, still subject to public comment and revision, which include a model statewide harassment prevention policy, complaint form and training guide, and minimum standards for harassment prevention policies and training, all of which can be found [here](#).

While employers are free to use their own forms, policies and training, they must meet or exceed the state's minimum standards. This includes a policy which contains, amongst other things, examples of prohibited conduct, information concerning federal, state and local statutory provisions, remedies available to victims, a complaint form, a procedure for the timely and confidential investigation of complaints that ensures due process, information concerning employees' rights of redress and all available forums for adjudicating complaints administratively and judicially, and an anti-retaliation provision. Likewise, any training must be interactive and provided to all current employees by January 1, 2019 or within 30 calendar days of an employee's start date if he or she commences employment after that date. Thereafter, training must be provided on an annual basis to all employees, including part-time and temporary workers.

The New York City Council likewise enacted its own law, the Stop Sexual Harassment in New York City Act, effective April 1, 2019. The Act requires annual interactive anti-sexual harassment training (only for those employers with 15 or more employees), a signed acknowledgment by each employee regarding attendance at the same, distribution of a written sexual harassment prevention policy and, *effective immediately*, mandates employers of all sizes to conspicuously display an anti-sexual harassment rights and responsibilities poster (in English and Spanish) and distribute an information sheet to all employees. The poster and information sheet can be found [here \(Spanish notice\)](#) and [here \(Spanish factsheet\)](#), respectively. Amongst numerous other requirements, the training must include information concerning bystander intervention, must be conducted for all new hires within 90 days of employment, and employers must retain a record of all trainings, including the signed employee acknowledgments, for at least three years and be available to the Commission on Human Rights upon request.

ABOUT MARC'S EMPLOYMENT LAW PRACTICE

The maze-like rules, regulations and laws governing labor and employment can be a minefield for employers. MARC's extensive litigation experience in all types of employment-related claims helps clients defend against lawsuits early and forcefully. Our successful representations run the gamut from trial verdicts on behalf of Fortune 50 corporations to dismissal of claims before administrative agencies. We investigate complaints from their inception and work with in-house counsel, management and corporate employees to aggressively defend our clients.

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In sum, effective immediately, all NYC employers must comply with the new poster and information sheet distribution requirements; by October 9, 2018, all New York State employers must comply with the policy, training and distribution requirements; and starting April 1, 2019, NYC's annual sexual harassment training cycle and new hire training requirements take effect. While the guidance provided by the State and City is helpful and should be utilized, given the importance of these issues and the sometimes contradictory nature of the requirements, employers are encouraged to consult with counsel to ensure that matters are handled properly, lawfully and in compliance with federal, state and local law. If you have any questions regarding your obligations under these laws, do not hesitate to contact a member of MARC's employment group.

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