

CLIENT ALERT

New York State and New York City Pass Legislation Aimed At Preventing Sexual Harassment In The Workplace

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The New York City Council recently passed the Stop Sexual Harassment in New York City Act ("NYC Act"), amending the New York City Human Rights Law and creating a number of new requirements for New York City employers. Among these new mandates are anti-sexual harassment training and other steps aimed at preventing sexual harassment in the workplace. The bill was passed one day after New York State Governor Andrew Cuomo signed into law the New York State Legislature's anti-sexual harassment legislation as part of the 2019 budget ("NY State Law"), which creates similar anti-sexual harassment training requirements at the state level. Together, these measures reflect increased efforts by state and local legislatures to combat sexual harassment in the workplace and underscore the importance to employers of complying with these new laws.

The NYC Act is now awaiting expected signature by Mayor Bill de Blasio. If enacted, it would take effect on April 1, 2019 and require employers with fifteen employees or more to annually conduct an interactive anti-sexual harassment training program for all employees, including supervisory and managerial employees, within the City of New York. This interactive training must include some form of participatory teaching and trainer-trainee interaction, but it is not required to be live. Substantively, the training must cover a number of topics, including examples of what constitutes sexual harassment; internal complaint procedures; employee rights and remedial measures available under local, state, and federal law; information on bystander intervention, and specific responsibilities of supervisors and managers in the prevention of sexual harassment and retaliation. The training program mandated by the NY State Law is virtually identical and takes effect October 9, 2018. New York City and State both intend to create and publish model training modules that employers can use as a guide in creating and/or updating their training programs and policies.

In a further effort to combat sexual harassment, the NY State Law also prohibits employers from requiring nondisclosure clauses in agreements settling sexual harassment claims; prohibits mandatory arbitration of sexual harassment claims (unless part of a collective bargaining agreement); and requires entities bidding on state contracts to affirm that they have implemented written anti-sexual harassment policies and a training program. Similarly, the NYC Act includes a requirement that all NYC employers conspicuously post in the workplace anti-sexual harassment rights and responsibilities posters prepared by the New York City Commission on Human Rights; expands the statute of limitations on gender-based harassment claims filed before the Commission from one to three years; and expands the coverage of the New York City Human Rights Law, in reference to such claims, to employers with fewer than four employees, effective immediately upon enactment.

In light of these new developments, employers in New York State and New York City should carefully review and understand their obligations under these laws, update their sexual harassment training policies and procedures to ensure compliance, and take care to adhere to new State law in settling any disputes involving sexual harassment claims.

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