

CLIENT ALERT

New York City Enacts New Employee Protections Against Sexual Harassment

MAY 18, 2018

Earlier this month, New York City Mayor Bill de Blasio signed into law the Stop Sexual Harassment in NYC Act (the Act), a package of legislation aimed at preventing sexual harassment in the workplace. The new laws amend the New York City Human Rights Law (NYCHRL) and the New York City Charter to implement anti-sexual harassment measures that will, among other things, (i) require all private employers with 15 or more employees to conduct annual anti-sexual harassment training, (ii) expand the NYCHRL to permit gender-based harassment claims against employers of all sizes, and (iii) extend the statute of limitations for claims based on gender-based harassment under the NYCHRL from one year to three years.

These new city protections come on the heels of New York Governor Andrew Cuomo's recent signing of a New York State budget that features sweeping anti-sexual harassment reforms. Of particular relevance, and as explained in our previous briefing (accessible [here](#)), the New York State budget requires state agencies to promulgate model anti-sexual harassment training designed to prevent such conduct in the workplace. The New York City measures are outlined below.

Anti-Sexual Harassment Training

Pursuant to the Act, New York City law will now mandate that all private employers with 15 or more employees conduct annual anti-sexual harassment training for all employees. The training must be interactive, which the law defines to mean "participatory teaching whereby the trainee is engaged in a trainer-trainee interaction, use of audio-visuals, computer or online training program or other participatory forms of training as determined by [the New York City Commission on Human Rights]." The training is not required to be live or facilitated by an in-person instructor. The New York City Commission on Human Rights (the Commission) is also responsible for the creation of a free online interactive training module that may be used by employers to satisfy the Act's anti-sexual harassment training requirements. Employers must keep a record of all trainings, including a signed employee acknowledgement, for a period of at least three years. The employee acknowledgment may be electronic. The anti-sexual harassment training requirement will take effect on April 1, 2019.

As discussed in our briefing last year (accessible [here](#)), California imposes a required two-hour training on workplace sexual harassment. While a multistate employer that also has operations in California may use a training

developed in accordance with the California law to serve as the framework for its interactive training in New York City, the New York City law is required to also have certain City-specific components, including “[a]n explanation of sexual harassment as a form of unlawful discrimination under local (New York City) law;” “[a] statement that sexual harassment is also a form of unlawful discrimination under state (New York State) and federal law;” the complaint processes available through the Commission, the New York State Division of Human Rights, and the EEOC, including contact information; and, “[t]he prohibition of retaliation [under the NYCHRL].” Moreover, whereas the California training is required to be provided every two years to each supervisory employee and to all new supervisory employees within six months of their assumption of a supervisory position, the New York City law requires annual training for all employees and specifies that such training must be provided after 90 days of initial hire for employees who work more than 80 hours in a calendar year and who perform work on a full-time or part-time basis. Importantly, the Act clarifies that an employee who has received anti-sexual harassment training at one employer within the required training cycle will not be required to receive additional anti-sexual harassment training at another employer until the next cycle of annual training.

Expansion of Gender-Based Harassment under the NYCHRL

The Act broadens the protections of the NYCHRL so that gender-based harassment claims may be brought against employers of all sizes. The NYCHRL’s harassment laws have previously applied only to employers with four or more employees.

The Act also extends the statute of limitations for “a claim of gender-based harassment” under the NYCHRL so that a complaint of gender-based harassment may be filed “within three years after the alleged harassing conduct occurred,” instead of the one year limitations period that applies to all other types of harassment under the NYCHRL.

These two provisions took effect immediately upon Mayor de Blasio’s signing earlier this month.

Notice of Anti-Harassment Rights and Responsibilities

The Act also amends the NYCHRL to require the Commission to design an anti-sexual harassment rights and responsibilities poster, and in turn, to require every employer to conspicuously display such poster “in employee breakrooms or other commons areas employees gather.” Every employer is required to display such poster, “at a minimum,” in English and in Spanish. In addition, the Act calls upon the Commission to develop an “information sheet” for employers’ distribution to individual employees at the time of hire, which would contain, among other things, an explanation of sexual harassment as a form of unlawful discrimination, a description of sexual harassment, and various complaint processes. The Act specifies that the information sheet may be included in employers’ employee handbooks. This provision will take effect on September 6, 2018.

New York City employers of all sizes should review their current practices to ensure compliance with the Act’s various provisions, paying especially close attention to areas where New York City’s local requirements differ from state and federal requirements.

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