

GOVERNOR SIGNS 4 KEY CHANGES TO NEW YORK'S NDA LAW: WHAT EMPLOYERS NEED TO KNOW

Insights
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Governor Hochul recently signed a bill into law making significant changes to New York's law on nondisclosure agreements, which will require employers across the state to make immediate changes to their practices. The amendments took effect on November 17 and apply to all agreements entered on or after that effective date. With one exception, the four key changes will further restrict the use of NDA provisions in certain workplace settlement agreements. What do employers need to know about this significant development?

4 Key Changes to New York's NDA Law

The amendments that took effect on November 17 do the following:

1. Expand the law's nondisclosure provision requirements to settlements, agreements, or other resolutions involving claims of harassment or retaliation in violation of laws prohibiting discrimination.
2. Prohibit settlement agreements involving claims of unlawful discrimination, including discriminatory harassment or retaliation, from including a term or condition that requires a complainant to:
 - Pay liquidated damages or forfeit all or part of the consideration for the agreement if they violate a nondisclosure or non-disparagement clause; or

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- Make an affirmative statement, assertion, or disclaimer that they were not subject to unlawful discrimination.
3. Expand a notice requirement to independent contractors, which must now also include reference to the attorney general.
 4. Remove – much to the relief of plaintiffs, defense attorneys, and their clients – the mandatory 21-day wait period for complainants to review the nondisclosure agreement. The change now allows complainants to sign the agreement earlier if they choose. Complainants will still have seven days to revoke their consent to the agreement.

What Do You Need to Do?

Failure to abide by New York’s nondisclosure law may render such provisions unenforceable. Accordingly, over the next few months, you should review your standard nondisclosure provisions and agreements for New York and remove any offending language. You should also work with your employment attorney to ensure that future resolutions remain in compliance with this new law.

You should also remain attuned the other changes coming into effect as Governor Hochul signs other bills into effect. For a round-up of laws passed at the end of this year’s legislative session and whether the governor has signed them into effect, check out our Insight [here](#).

Conclusion

We will continue to monitor legislative developments, so make sure you are subscribed to [Fisher Phillips’ Insight System](#) to get the most up-to-date information directly to your inbox. If you have questions about this bill and whether your policies comply with workplace and other applicable laws, contact your Fisher Phillips attorney, the authors of this Insight, or any attorney in [our New York City office](#).

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