



New York Releases Model Training And Policy To Comply With New Sexual Harassment Laws

Insights

8.24.18

Employers in New York have been eagerly awaiting the state's anticipated model sexual harassment training and policies ever since the state passed significant new sexual harassment laws back in April. That day has finally arrived.

New York released drafts of a model sexual harassment prevention policy and a model sexual harassment training program yesterday, along with other key documents in connection with the new sexual harassment laws. Employers, and other members of the public, now have the opportunity to weigh in on these requirements, as the state has invited comments on the proposed materials. What do you need to know about these materials?

Recap On The Impending Anti-Sexual Harassment Requirements

As a quick recap, New York passed significant new sexual harassment laws earlier this year. Among the new requirements, all employers in New York are required to adopt a sexual harassment prevention policy to be distributed in writing to employees and conduct annual sexual harassment training starting October 9, 2018. The statute directed the New York State Department of Labor and the New York State Division of Human Rights to develop both a model sexual harassment policy and model training program. Employers can then choose whether to adopt the models prepared by the state or develop their own, so long as their policies and training meet or exceed the standards contained in the models.

The model sexual harassment prevention policy needed to include the following:

- a statement prohibiting sexual harassment;
- examples of prohibited conduct that would constitute sexual harassment;
- information concerning the federal and state statutory provisions concerning sexual harassment and remedies available to victims, along with a statement that there may be additional applicable local laws;
- a standard complaint form;
- the procedure for the timely and confidential investigation of complaints;
- a statement informing employees of their rights of redress and all available forums for adjudicating sexual harassment complaints administratively and judicially;

- a statement that sexual harassment is a form of employee misconduct, and that sanctions will be enforced against individuals engaging in sexual harassment and managers and supervisory personnel who knowingly allow such behavior to continue; and
- a statement that retaliation against individuals reporting sexual harassment or who testify or assist in any proceeding is unlawful.

Meanwhile, the model sexual harassment prevention training needed to be interactive and include the following:

- an explanation of sexual harassment;
- examples of conduct that would constitute unlawful sexual harassment;
- information concerning the federal and state statutory provisions concerning sexual harassment and remedies available to victims; and
- information concerning employees' rights of redress and all available forums for adjudicating complaints.

The model training also needed to include information addressing conduct by supervisors and additional responsibilities for supervisory personnel.

The Wait Is Over: State Publishes Draft Documents

On August 23, the state released the following:

- A new website with resources for employers and employees regarding combating sexual harassment in the workplace;
- A model sexual harassment prevention policy, which is considered the “minimum standard” requirement for employers to adopt as is or use as a basis to establish their own, more robust policy;
- A model sexual harassment complaint form
- A model anti-harassment training; and
- FAQs on the materials.

The released materials are in draft form and the state is seeking comment from the public on the proposed materials. Comments can be submitted through the website on or before September 12, 2018.

Although in draft form, the newly published materials answer some key questions that employers have been pondering since the new legislation passed. First, the materials make clear that though the statute requires annual sexual harassment training starting October 9, 2018, employers must complete training initially by January 1, 2019. Additionally, new hires must complete sexual harassment training within 30 calendar days of starting their job.

According to the FAQs, all employees—even if temporary and transient, working for as little as one day for the employer or for just one day in New York—must receive training. If included in the final materials, this would impose a significant burden on employers to train employees who work even for just one day in New York.

Finally, the materials clarify that interactive training requires some form of employee participation, such as web-based training with questions asked of employees as part of the program, training that accommodates questions asked by employees, a live trainer made available during the session to answer questions, and/or require feedback from employees about the materials presented.

As for the sexual harassment prevention policy, the model published by the state is a comprehensive, seven-page document. The FAQs note that employers can provide the policy to employees electronically, but workers must be able to access the policy during work time and be able to print a copy for their records.

What's Next?

Though the model documents are in draft form, New York employers must begin taking steps to ensure compliance with the new laws come October 9, 2018. You will need to implement a compliant policy using the state model as a baseline standard. Additionally, you will need to conduct sexual harassment training in short order and be prepared to train new employees within 30 days of hire. If you have already implemented policies and conduct regular training sessions, you still will likely need to update your existing policies and training materials to meet the state's minimum standards set forth in the models.

For more information about compliance with the law, contact any attorney in our [New York City](#) office at 212.899.9960 or your Fisher Phillips attorney.

This Legal Alert provides an overview of specific state laws and compliance materials. It is not intended to be, and should not be construed as, legal advice for any particular fact situation.

Related People





Melissa Camire

Partner

212.899.9965

Email

Service Focus

Employment Discrimination and Harassment

Litigation and Trials

Counseling and Advice

Related Offices

New York