

Update: Changes to Sexual Harassment Laws in Both New York City and State

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In response to the #MeToo movement New York State and New York City have both passed sweeping legislation regarding sexual harassment in the work place.

New York State

Governor Cuomo has signed into law several provisions aimed at curtailing sexual harassment.

First, employers in New York state will no longer be permitted to mandate the arbitration of sexual harassment claims, unless, under federal law or a collective bargaining agreement, it is mandated that the claim be arbitrated.

Second, settlement agreements relating to sexual harassment claims can no longer include non-disclosure agreements regarding the claim's underlying facts unless the complainant consents. The complainant must also be provided with 21 days to consider the non-disclosure provision and 7 days to revoke their acceptance of same after signing the settlement agreement.

Third, employers will be required to adopt a sexual harassment policy that meets standards developed by the State. A model policy on which employers can base their own policies will be provided by the State. Employers will also be required to distribute their sexual harassment policy in writing to their employees and to provide annual training regarding sexual harassment that also meets standards developed by the State.

Fourth, companies bidding on a state contract will be required to certify that they have training and a written sexual harassment policy that meets the State's standards.

Fifth, companies will be responsible for sexual harassment committed against contractors if the employer knew or should have known about the harassment and did not act and the company had sufficient control over the harasser.

Last, government employees will be required to repay the State for any payments made by the State to claimants for alleged sexual harassment.

New York City

On May 9, 2018, Mayor de Blasio signed 11 bills designed to fight sexual harassment in both private and public work places, including

- A bill requiring all city agencies to conduct sexual harassment training for all employees on a yearly basis;
- A bill requiring all employers with 15 or more employees to conduct sexual harassment training for all employees on a yearly basis;
- A bill requiring the New York City Commission on Human Rights to post resources regarding sexual harassment on its website;
- A bill requiring all employers to post a notice on anti-sexual harassment rights and responsibilities;

- A bill requiring all city agencies to assess workplace risk factors for sexual harassment
- A bill requiring city agencies to utilize surveys to test knowledge of the EEO polies (including the sexual harassment policy);
- A bill requiring all city agencies to report incidents of sexual harassment on a yearly basis;
- A bill requiring all contractors and subcontractors applying for city contracts to report on their employment practices and policies regarding sexual harassment;
- A bill amending the New York City Human Rights Law to require all employers, regardless of size, to comply with the law's gender-based discrimination provisions;
- A bill amending the policy statement of the New York City Human Rights Law to include sexual harassment; and
- A bill changing the New York City Human Right's statute of limitations for gender-based harassment from one year to three years.

TAKEAWAY: Given these numerous new laws, now is the perfect time for employers to review their harassment policies and training procedures to ensure they are compliant. We will continue to provide updates on these laws as they go into effect, but a comprehensive review of policies and training now will help to prevent issues in the future.

Attorney

- Tracy Armstrong

Practice

- Employment Law