



April 2018

New York City Enacts Sexual Harassment Prevention Requirements

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On April 11, 2018, the New York City Council enacted a package of legislation referred to as the “Stop Sexual Harassment in NYC Act,” described by the City Council as critical to creating safe workplaces in New York City. The law mandates sexual harassment prevention programs for all New York City employers and is awaiting Mayor Bill de Blasio’s signature, which is expected to occur within the next few days.

The Stop Sexual Harassment in NYC Act passed one day after New York Gov. Andrew Cuomo signed the Budget Bill, which contains a new state law (detailed in our [April 5, 2018 article](#)) requiring employers to conduct annual anti-sexual harassment training. New York City employers must comply with both state and city training requirements.

The chart below compares the training requirements under state and city laws.

The Act expands the scope and period for bringing sexual harassment claims under the New York City Human Rights Law and places notice and prevention requirements on employers.

Laws Affecting New York City Employers

Whereas the NYCHRL generally covers employers with four (4) or more employees, all New York City employers, regardless of the number of individuals they employ, will be subject to the NYCHRL with respect to only sexual harassment. Thus, for sexual harassment claims only, the law expands the definition of “employer” to include all New York City businesses and entities that employ at least one individual within New York City.

The Stop Sexual Harassment in NYC Act also expands the statute of limitations period for sexual

harassment claims. Under the NYCHRL, aggrieved individuals have one year from the alleged discriminatory practice to file a complaint with the New York City Commission on Human Rights and three (3) years from the alleged incident to file a claim in court. Effective immediately, the new law allows individuals up to three (3) years to file sexual harassment claims with either the City Commission or in court; the statute of limitations period for all other discrimination or harassment claims remains unchanged.

In addition, within 120-days after the Mayor signs the Stop Sexual Harassment in NYC Act into law, the City Commission must create anti-sexual harassment posters in both English and Spanish. New York City employers will be required to post both the English and Spanish versions of the posters with other workplace postings.

Finally, as of April 1, 2019, all private employers with fifteen (15) or more employees in New York City will be required to conduct annual anti-sexual harassment interactive training. The City Commission is charged with creating interactive training programs. Employers can use the model training programs created by the City Commission to satisfy the training requirements set forth in the Stop Sexual Harassment in NYC Act, or they can implement their own policies and training programs provided that such policies and programs equal or exceed the minimum standards set by City Commission. A chart below details the training requirements of the City’s Stop Sexual Harassment in NYC Act and the New York State training requirements that were enacted as part of the recent budget bill:

New York Anti-Sexual Harassment Training Requirements

	State Human Rights Law Requirements	City Human Rights Law Requirements
Timing/Frequency	Beginning Oct. 7, 2018, annual training required; no mention of timing for new employees.	Beginning April 1, 2019, annual training required; new hires must be trained within ninety (90) of their hire date, unless the employee received training within the same annual cycle from a prior employer.
Record-keeping	No record-keeping requirement.	Signed employee anti-sexual harassment training acknowledgement forms must be kept for three (3) years.
Type of Training	Interactive training, but no definition of interactive provided.	Interactive training; defined as trainer-trainee interaction, use of audio-visuals, computer or online training program or other participatory forms of training (live/in-person not required).
Training Requirements	(1) An explanation of sexual harassment consistent with guidance issued by the department in consultation with the New York State Division of Human Rights.	(1) An explanation of sexual harassment as a form of unlawful discrimination under New York City Human Rights Law.
	(2) Information concerning the federal and state statutory provisions concerning sexual harassment and remedies available to victims of sexual harassment.	(2) A statement that sexual harassment is also a form of unlawful discrimination under state and federal law.
	(3) Examples of conduct that would constitute unlawful sexual harassment.	(3) A description of what sexual harassment is, using examples.
	(4) Information concerning employees' rights of redress and all available forums for adjudicating complaints.	(4) Any internal complaint process available to employees through their employer to address sexual harassment claims.
	(5) See nos. 2 and 4 above, similar requirement to inform of remedies under the law.	(5) The complaint process available through the commission, the New York State Division of Human Rights and the United States Equal Employment Opportunity Commission, including contact information.

	State Human Rights Law Requirements	City Human Rights Law Requirements
	(6) State law requires employers to maintain a sexual harassment prevention policy that clearly states retaliation is prohibited; but there is no specific training requirement on this issue.	(6) The prohibition of retaliation, pursuant to subdivision 7 of section 8-107, and examples of protected activity under the law (e.g. opposing discrimination, filing a complaint, testifying on behalf of someone complaining about discrimination, and assisting in an investigation).
	(7) No requirement to address bystander intervention, a sexual harassment prevention technique where a third person interrupts a potentially harmful situation or conversation.	(7) Information concerning bystander intervention, including but not limited to any resources that explain how to engage in bystander intervention.
	(8) Information addressing conduct by supervisors and any additional responsibilities of such supervisors.	(8) The specific responsibilities of supervisory and managerial employees in the prevention of sexual harassment and retaliation, and measures that such employees may take to appropriately address sexual harassment complaints.

Further, all employees, both part-time and full-time employees, who work more than 80 hours in a calendar year, will be required to receive training 90 days after being hired. For at least three (3) years, employers are required to keep records of the training they conduct including signed employee acknowledgments of such training.

In light of the Stop Sexual Harassment in NYC Act, as with the budget bill, New York City employers should be prepared to implement sexual harassment prevention training programs and should periodically consult the City Commission’s website to learn about model training programs they can use as well as the posters that they will need to post in the workplace.

Employers that already have anti-harassment training programs should review their training programs to ensure they comply with the new requirements discussed above and that they meet the minimum standards established by the City Commission.

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