

New York Issues Final Model Sexual Harassment Policy and Training Guidelines

On October 1, the New York State Division of Human Rights issued its [final model sexual harassment policy](#) and [training guidelines](#) to assist employers in complying with the new sexual harassment legislation that will become effective October 9, 2018. One piece of good news for employers is that the Division's final training guidelines no longer require that employers train all employees by January 1, 2019, as the Division initially proposed. Instead, according to the [FAQs](#), employers will have until October 9, 2019 -- a full 12 months from the effective date of the legislation -- to complete the training for all employees. In addition, the Division's final training guidelines no longer require that new employees complete the sexual harassment training within 30 calendar days of starting their job. Instead, the Division's guidelines simply encourage employers to train their new employees "as soon as possible" after beginning employment.

In its final model sexual harassment policy, the Division took into consideration some of the comments submitted by our firm in response to the proposed model policy. For example, the Division deleted the statement that an investigation of an allegation of sexual harassment "should be completed within 30 days," instead requiring only that an investigation should be completed "as soon as possible." In addition, the Division eliminated the statement that the employer has a "zero-tolerance policy" for any form of sexual harassment, as this provision was inconsistent with federal guidelines on sexual harassment policies.

Employers are required to have a compliant sexual harassment policy in place by October 9, 2018. Although employers are not required to use the model policy, every policy must:

- Prohibit sexual harassment in a manner consistent with the guidance issued by the Division of Human Rights;
- Provide examples of prohibited conduct;
- Include information regarding the federal and state statutory provisions concerning sexual harassment, remedies available to victims of sexual harassment, and a statement that there may be applicable local laws;
- Include a complaint form;
- Include a procedure for the timely and confidential investigation of complaints that ensures due process for all parties;
- Inform employees of external administrative and judicial remedies for addressing sexual harassment complaints;
- Clearly state that sexual harassment is a form of employee misconduct, and that sanctions will be enforced against individuals who engage in sexual harassment and against supervisory and management personnel who knowingly allow sexual harassment; and

- Clearly state that retaliation is unlawful.

Our firm will be conducting a series of breakfast briefings on this topic in 13 locations across New York State from early October to early November. Here is the registration link for our [11 Upstate briefings](#) and here is the link for our [2 Downstate briefings](#), so that you can sign up for the briefing that is most convenient for you.

If you have any questions about this Information Memo, please contact [Subhash Viswanathan](#), any of the [attorneys](#) in our [Labor and Employment Law Practice](#), or the attorney in the firm with whom you are regularly in contact.



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