

FACT SHEET:

NEW YORK STATE LEGISLATION COMBATTING SEXUAL HARASSMENT IN THE WORKPLACE

New York State recently passed [several key protections](#) to combat sexual harassment in the workplace. These laws will take effect at various points over the coming months and we will continue to update this fact sheet.

➤ **Mandatory Training & Model Policy**

- All employers in the State will be required to 1) adopt a sexual harassment prevention policy; and 2) conduct annual anti-sexual harassment training for employees.
- The Department of Labor is tasked with creating a model policy and model training in conjunction with the Division of Human Rights. The model training must be interactive and include:
 - An explanation of sexual harassment consistent with guidance issued by the Department of Labor in consultation with the Division of Human Rights;
 - Examples of conduct that would constitute unlawful sexual harassment;
 - Information concerning the federal and state statutory provisions related to sexual harassment and remedies available to victims of sexual harassment;
 - Information concerning employees' rights and remedies and all available forums for adjudicating complaints; and
 - Information addressing conduct by supervisors and any additional responsibilities for supervisors.
- Employers can use the model policies and training program developed by the agency or develop a policy and training program that equals or exceeds the standards set forth by the State.
- All employers that competitively bid to do business with the state must certify, as part of their bid, that they have a model policy and conduct annual trainings.

➤ **Ban on Non-Disclosure Agreements Involving Sexual Harassment Claims**

- No employer in the State may include a non-disclosure agreement in a settlement pertaining to sexual harassment, unless it is the complainant's preference to include a confidentiality clause.
- The complainant must be given 21 days to consider including a confidentiality clause in the agreement.
- For a seven-day period after the agreement is executed, the complainant may choose to revoke the agreement.

➤ **Expanded Sexual Harassment Protections for Non-Employees**

- Covered employers will be liable for sexual harassment that takes place against non-employees in their workplaces if the employer or the employer's supervisor knew or should have known about the harassment and failed to take immediate and appropriate corrective action.
- This includes "non-employees" who are contractors, subcontractors, vendors, consultants of the employer, or employees of the aforementioned groups.



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➤ **Ban on Mandatory Arbitration Clauses Involving Sexual Harassment Claims**

- Except where inconsistent with federal law, no employer in the State can include a clause in a written contract requiring that employees submit to mandatory arbitration to resolve a sexual harassment claim.

➤ **Reimbursement of State Funds Paid to Victims of Sexual Harassment**

- State employees who are found to be “personally liable for intentional wrongdoing” related to sexual harassment must reimburse the State for their proportionate share of the payment the State made to the plaintiff in the case.
- If the employee is still working for the State and does not reimburse the State within 90 days of the State’s payment to the plaintiff, the State can obtain a judgment against the employee and garnish the employee’s wages.
- If the employee is no longer working for the State, the State can enforce a money judgment against the employee.