

## LABOR AND EMPLOYMENT

# A L E R T

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## FINAL NEW YORK STATE SEXUAL HARASSMENT GUIDANCE AND FORMS ISSUED DAYS BEFORE EFFECTIVE DATE

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On October 1, 2018, just days before the October 9, 2018 deadline for compliance, the New York State Department of Labor (“NYDOL”) and the New York State Division of Human Rights (“NYDHR”) issued the final guidance implementing the new provision of the Executive Law that requires all employers to have a sexual harassment prevention policy and to implement sexual harassment prevention training for employees in New York State. The New York State agencies issued: (1) the final requirements for a compliant sexual harassment policy; (2) a model sexual harassment policy; (3) a model complaint form; (4) a model sexual harassment training module; and (5) FAQs.

The final guidance announced that **by October 9, 2018**, all employers in New York State are required to have in place a compliant anti-sexual harassment policy and to have completed sexual harassment training. The date for issuing a compliant sexual harassment policy is unchanged from the proposed deadline. The deadline to complete sexual harassment training was advanced from January 1, 2019, as proposed in the draft guidance, to October 9, 2019.

[Our prior Alert](#) discussed the minimum contents of a compliant sexual harassment policy and compliance training under the new law. The final model policy contained a few changes from the proposed model. The requirement that all investigations be confidential was modified to require confidential investigations to the extent possible. The proposed 30-day limit to complete an investigation was changed to state that investigations are to be completed as soon as possible. And, the final model policy includes a

statement that false accusations are not protected by anti-retaliation prohibitions in the law.

According to the final FAQs, an employer’s existing training materials to prevent sexual harassment can be relied upon to satisfy the law initially, but any gaps between the employer’s policy and the New York State final training materials must be filled by the employer by supplemental training. New employees must be trained as soon as possible after commencement of employment.

In addition to the New York State requirements, New York City employers should keep in mind the new requirements of the New York City Human Rights Law (“NYCHRL”).

Amendments to the NYCHRL Law that require anti-harassment training go into effect on April 1, 2019. Employers must train workers annually who work more than 80 hours per year and new workers within 90 days of the commencement of employment.

As a reminder, as of September 6, 2018, the NYCHRL required employers with more than 15 employees to post “Stop Sexual Harassment Act” posters and distribute a prescribed fact sheet to new employees. The poster and fact sheet can be downloaded from the [website of the NYC Human Rights Commission](#). ♦

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