

## Client Alert

### **The Deadline for New York Employers to Implement or Update Their Anti-Sexual Harassment Policies and Have Completed Mandatory Sexual Harassment Training is Fast Approaching**

September 4, 2018 – As set forth in our [April alert](#) regarding the amendments to New York’s Human Rights Law, New York employers are required by October 9, 2018 (and thereafter on an annual basis) to either (i) adopt and distribute a [model sexual harassment prevention policy](#), as drafted by the New York Department of Labor (NYSDOL) and the New York State Division of Human Rights (NYSDHR); or (ii) draft and distribute their own adequate written anti-sexual harassment policies that include the following:

- Prohibition of sexual harassment and examples of prohibited conduct, including a statement that sexual harassment is considered a form of employee misconduct and that disciplinary action will be taken against those individuals engaging in sexual harassment and those supervisory and managerial personnel who knowingly allow such inappropriate behavior to continue;
- Detailed information concerning the federal, state and local laws and available remedies, including employees external rights of redress and available administrative and judicial forums;
- A standard internal complaint form and procedures for the timely and confidential investigation of sexual harassment complaints that ensures due process for all parties involved.<sup>1</sup> A model complaint form drafted by the NYSDOL and NYSDHR can be found [here](#); and
- Explicit policy prohibiting retaliation against individuals who register a complaint of sexual harassment or who cooperate in connection with an employer’s investigation of such a complaint.

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<sup>1</sup> Note that as of April 2018 amendments to the Human Rights Law also explicitly protect non-employees from harassment in the workplace. As such, an employer may also be held liable for the sexual harassment of a non-employee who is (or is employed by) an independent contractor, subcontractor, vendor, consultant, temporary worker or individual who otherwise provides services in the workplace such as those persons providing equipment repair, cleaning services, or any other services provided pursuant to a contract with the employer.

By October 9, New York employers will also be required to implement annual mandatory sexual harassment prevention training that either meets or exceeds the minimum standards set forth in the [model](#) drafted for employers by NYSDOL and NYSDHR. The employer may, alternatively, however, choose to implement their own sexual harassment prevention training program that includes the following:

- Interactive training including a detailed explanation of sexual harassment and specific examples of what constitutes unlawful sexual harassment. The employer should conduct in-person training to fulfill the interactive requirement, as the law makes clear that the training should offer employees the ability to ask questions and obtain feedback;
- Detailed information concerning the federal, state and local laws and available remedies, including employees external rights of redress and available administrative and judicial forums;
- Information addressing conduct by supervisors and heightened responsibilities for such supervisors to address sexual harassment claims appropriately.<sup>2</sup>

If you require any additional information concerning the New York State's and New York City's mandatory anti-sexual harassment prevention policies and mandatory training requirements or need to have your current policies reviewed, updated or arrange for appropriate training to comply with these new laws, or you have any other employment-related issue, please feel free to contact:

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<sup>2</sup> In addition to these State law requirements, the recently enacted Stop Sexual Harassment in NYC Act signed into law by Mayor Bill de Blasio in May 2018, will further require all New York City employers to display anti-harassment posters by April 1, 2019.