

## NYS Sexual Harassment Prevention—Quick Facts

New York State's legislation to address sexual harassment in the workplace is now in place, making New York State the first in the nation to require employers (regardless of size) to adopt a written sexual harassment prevention policy and provide annual training to all employees.

### Key Components of the Guidance:

#### Sexual Harassment Prevention Policy

Every employer in NYS is required to establish a sexual harassment prevention policy. The state published a model sexual harassment prevention policy which employers may adopt. If an employer does not adopt the state's model it must implement a policy that meets or exceeds the state's minimum standards. The policy applies to all employees, paid or unpaid interns, as well as non-employees including contractors, subcontractors, vendors, consultants, customers, clients, independent contractors, temporary workers, or anyone else providing services in the workplace—regardless of immigration status. The state developed an optional sexual harassment prevention poster that employers can adapt and post in a central location to inform employees, and non-employees, of their rights and the process for filing complaints.

#### Sexual Harassment Prevention Training

Employers may also adopt the state's model training or conduct their own training that meets or exceeds the state's minimum standards. All employers are required to train current employees by October 9, 2019 and new employees must be trained as soon as possible. Training must be provided to all employees who work, or will work, in New York, including non-exempt employees, part-time workers, seasonal workers, and temporary workers. Training must be completed annually and can be based on the calendar year, the anniversary of each employee's start date, or any other date the employer chooses.



### How We Can Help.

- Review your current policy and training to ensure you meet/exceed the minimum standards
- Conduct custom training program for employees and/or managers
- Provide guidance on effective and proper investigation procedures
- Defend employers in any legal proceedings related to complaints of harassment, discrimination, or retaliation





### Highlights of the policy and training requirements:

- Define and provide examples of sexual harassment.
- Provide information on internal mechanisms for reporting complaints, including a complaint form.
- Clearly state that individuals may be subject to corrective action for engaging in sexual harassment.
- Prohibit retaliating against individuals who complain of sexual harassment or who testify or assist in any investigation or proceeding involving sexual harassment.
- Describe procedures for timely and confidential investigation of complaints.
- Describe additional responsibilities imposed on managers and supervisors.
- Provide information on federal, state, local, and court avenues to report and adjudicate claims, including contact information for local police agencies.
- Provided in the language spoken by employees
- Training must be “interactive” and may be online.  
Examples of interactive web-based training include:
  - Having questions at the end of a section where the employee must select the right answer.
  - Allowing employees to submit question(s) online and receive an answer in a timely manner.
- Employers are not required to obtain signed acknowledgements from employees indicating that they have received the policy or keep attendance records from training sessions, however we recommend employers obtain such records as they may be helpful in responding to complaints or defending against any legal claims.

Although employers must meet the minimum standards of the guidance, an employer’s best defense against sexual harassment claims is to encourage an environment that promotes collaboration, inclusion, and, most of all, respect. This will not only assist with harassment prevention, but also improve employee morale and satisfaction.

Learn more at [hselaw.com](http://hselaw.com) or contact a Harter Secret & Emery Labor and Employment team member in Rochester at **585.232.6500** or in Buffalo at **716.853.1616**.



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