

LABOR & EMPLOYMENT

>>ALERT

NEW YORK STATE PROVIDES ADDITIONAL GUIDANCE ON EXPANDED WORKPLACE HARASSMENT PREVENTION REQUIREMENTS

Earlier this year, New York State significantly expanded its workplace harassment protections.

Among these expanded protections is a requirement that employers provide all employees, upon hire and at every sexual harassment prevention training, a notice containing the employer's "sexual harassment prevention policy and the information presented at such employer's sexual harassment prevention training program." For more information on New York State's expanded workplace harassment protections, please see our [previous alert](#).

This notice requirement went into effect on August 12, 2019 but it was unclear at the time exactly what information must be included in the notice in order to fulfill the notice requirement.

SEXUAL HARASSMENT PREVENTION NOTICE

New York State (the State) has now provided additional guidance on the expanded protections, including the notice requirement. Specifically, the State has published a model Sexual Harassment Prevention Notice (the Notice), which must be provided, along

THE BOTTOM LINE

Employers in New York State should prepare a Sexual Harassment Prevention Notice for their workplace attaching and/or linking to their harassment prevention policy and training materials, and ensure that this Notice is included in their onboarding and training materials. Employers should also ensure that the harassment prevention policy attached to the Notice is consistent with the updated model policy on the State's website, which has been revised to account for the expanded protections that went into effect earlier this year.

with the employer's sexual harassment prevention policy and harassment prevention training materials, at the time of hiring and during the employer's annual harassment prevention training. A PDF version of the Notice can be found [here](#) and a Word version of the Notice can be found [here](#).

The State's [updated FAQs](#) clarify that the harassment prevention training materials to be provided with the notice include "any printed materials, scripts, Q+As, outlines, handouts, PowerPoint slides, etc." The FAQs also define "at the time of hiring" to mean prior to or at the beginning of a new employee's first day of work.

The Notice must:

- 1) Be delivered in writing (in print or digitally, e.g., via email);
- 2) Link to or include as an attachment or printed copy the employer's harassment prevention policy, including the required complaint form as well as training materials; and
- 3) Designate a person or office to whom individuals may file a complaint and/or ask questions, and list the contact information for such person or office on the Notice.

For employers who use the State's model training materials or other

>> continues on next page

LABOR & EMPLOYMENT

>>ALERT

training materials available online, providing an electronic or printed copy, or a link to such materials, is sufficient. For employers whose training materials are in other formats, “reasonable efforts” must be made to provide the materials with the Notice, including providing print-outs or links to training materials, scripts or PowerPoint slides.

PRIMARY LANGUAGE REQUIREMENTS

The new guidance also states that employers must provide employees with the Notice, policy and training materials in both English and in the employee’s primary language if it is Spanish, Chinese, Korean, Polish, Russian, Haitian-Creole, Bengali or Italian. (Model materials in these languages have been published on the State’s website). However, the guidance encourages employers to provide the Notice, policy and training materials in the language spoken by

the employee, regardless of whether model materials in that language have been published, since employers may be held liable for the conduct of all of their employees.

UPDATED ANTI-HARASSMENT POLICY

Employers should also note that the State’s new guidance includes a slightly updated model harassment prevention policy, which takes into account the expanded protections. The updated model policy addresses, among other things, the:

- 1) “Petty slights and trivial inconveniences” standard now in place under New York State law; and
- 2) Extended statute of limitations (i.e., from one to three years) for filing complaints of sexual harassment with the New York State Division of Human Rights.

Employers should revise their harassment prevention policy accordingly.

Finally, New York City employers should keep in mind that New York City has its own harassment prevention requirements, as discussed in our [prior alert](#).

FOR MORE INFORMATION

Shira Franco
Partner
212.468.4839
sfranco@dglaw.com

Judith Kong
Associate
212.468.4851
jkong@dglaw.com

or the D&G attorney with whom you have regular contact.

Davis & Gilbert LLP
212.468.4800
1740 Broadway, New York, NY 10019
www.dglaw.com
© 2019 Davis & Gilbert LLP