

NEW YORK

New York's Effort to End Sexual Harassment

In October 2019, employers in New York must comply with a new law designed to stop sexual harassment. Governor Andrew Cuomo signed this bill into law on August 12, 2019.

Many of the modifications to the New York State Human Rights Law (NYSHRL) will take effect in October 2019, so read on to learn what your company can expect and must do to comply.

- **Deadline for Sexual Harassment Prevention Training** – Employers need to train current employees and implement a plan to train new hires as quickly as possible. As part of the compliance requirement, employers must provide written copies of the company's sexual harassment prevention policy and program training materials to employees when hired and once more at an annual training session. The materials must be in English as well as the employee's primary language. Effective: October 9, 2019.
- **Modified Requirements to Prove Discriminatory Harassment** – The Legislature's new law lowers the standard of proof required of individuals claiming harassment, so it is more in line with the NYCHRL's "treated less well" standard. Plaintiffs no longer need to identify a fellow employee as a means to compare they've been subjected to "inferior terms, conditions, or privileges of employment." Effective: October 12, 2019.
- **New Defense Available** – Employers need not be concerned about "defenses" available in litigation; that's your lawyer's role. Employers should know that liability can only be avoided if an alleged harassment "does not rise above the level of what a reasonable victim of discrimination would consider petty slights or trivial inconveniences." This is a very low standard. Effective: October 12, 2019.
- **Statute of Limitations Extended to Three Years** – Employees may now file sexual harassment claims within three years of the incident. Effective: October 12, 2020.
- **Recovery of Punitive Damages and Attorney's Fees** – Under the new law, prevailing employees are entitled to recover punitive damages and reasonable attorney's fees.

The Takeaways

Under the new law, employers will have more at stake when it comes to harassment claims. Harassment claims are less likely where the corporate culture strongly opposes harassment and discrimination (for any reason), and that starts at the top. If needed, change the way senior management thinks about sexual harassment. The business world has changed from decades past.