



August 2018

Follow @Paul_Hastings



New York State Releases Model Sexual Harassment Policy and Training

By [Marc Bernstein](#), [Kenneth W. Gage](#), [Brian M. Hayes](#), [Emily R. Pidot](#) & [Patrick W. Shea](#)

More than four months after New York State passed new laws addressing sexual harassment in the workplace, the state has launched a [website](#) with much-awaited employer guidance that includes a proposed model sexual harassment policy, complaint form, and annual sexual harassment prevention training that employers must adopt by **October 9, 2018**.

The model policy, complaint form, and training are all currently in draft form, pending a public notice and comment period that runs through **September 12, 2018**.

The Proposed Model Policy and Complaint Form

New York's proposed [model policy](#) and [model complaint](#) form set forth the *minimum* requirements for employers' sexual harassment policies. Some of these requirements include:

- Prominently posting the policy in the workplace and providing a copy to employees at the time of hire.
- Extending the scope of the employer's harassment policy coverage beyond only employees to "anyone providing services in the workplace."
- Mandating the adoption of a standard sexual harassment complaint form and encouraging any person who may make an oral complaint of harassment to use the complaint form.
- Creating a robust record of every sexual harassment investigation, including a list and summarized description of all documents reviewed, a summary of the statements of all individuals interviewed, a comprehensive timeline of events, a summary of prior relevant incidents, the final resolution and any corrective actions taken.
- Informing employees that they have the right to file claims with the New York State Division of Human Rights, the EEOC and, where applicable, the New York City Commission on Human Rights [or other local enforcement agencies], providing employees with applicable filing deadlines, and directing them to administrative agencies for additional resources.
- Disclosing that the existence of the policy is not in and of itself an employer affirmative defense to sexual harassment charges. The model policy places this disclosure on every page, prominently displayed in italic font.



The Proposed Model Training

In addition to adopting a policy and complaint form that meets New York's minimum requirements, all employers are required to provide annual sexual harassment training starting **October 9, 2018**. The proposed [training](#) must be "interactive," meaning that it must have some degree of employee participation. According to the draft guidance, the annual training "should include as many of the following elements as possible": (1) web-based, with the capability of employees to ask questions; (2) accommodate questions asked by employees; (3) inclusion of a live trainer to answer questions in real time; and (4) provide for employees to give feedback on the training and materials presented.

Next Steps

During the public notice and comment period that runs through **September 12, 2018**, employers and other interested parties may provide comments about the proposed model policy, complaint form and training [here](#).

We will provide an update when the final guidance is issued.



If you have any questions concerning these developing issues, please do not hesitate to contact any of the following Paul Hastings New York lawyers:

Marc E. Bernstein
1.212.318.6907
marcbernstein@paulhastings.com

Patrick W. Shea
1.212.318.6405
patrickshea@paulhastings.com

Brian M. Hayes
1.212.318.6822
brianhayes@paulhastings.com

Kenneth W. Gage
1.212.318.6046
kennethgage@paulhastings.com

Emily R. Pidot
1.212.318.6279
emilypidot@paulhastings.com

Paul Hastings LLP

Stay Current is published solely for the interests of friends and clients of Paul Hastings LLP and should in no way be relied upon or construed as legal advice. The views expressed in this publication reflect those of the authors and not necessarily the views of Paul Hastings. For specific information on recent developments or particular factual situations, the opinion of legal counsel should be sought. These materials may be considered ATTORNEY ADVERTISING in some jurisdictions. Paul Hastings is a limited liability partnership. Copyright © 2018 Paul Hastings LLP.