

Sexual Harassment Prevention EMPLOYER TOOLKIT



Combating
Sexual Harassment

Introduction

New York State is a national leader in the fight against sexual harassment and is partnering with employers across the state to further our commitment to ending sexual harassment in the workplace.

This toolkit will provide you step-by-step guidance to implementing the required training and sexual harassment policy, directing you to resources available through New York State and the relevant state agencies.

These resources are all available on the State's Combating Sexual Harassment in the Workplace website: www.ny.gov/programs/combating-sexual-harassment-workplace.

What are the New Requirements?

The 2019 New York State Budget includes the nation's strongest and most comprehensive sexual harassment package, including new resources and requirements for employers. There are two key components under this law:

Policy (see pages 2-4)

Under the new law, every employer in New York State is **required to establish a sexual harassment prevention policy**. The Department of Labor in consultation with the Division of Human Rights has established a model sexual harassment prevention policy for employers to adopt, available at www.ny.gov/programs/combating-sexual-harassment-workplace. Or, employers may adopt a similar policy that meets or exceeds the minimum standards of the model policy (www.ny.gov/combating-sexual-harassment-workplace/employers#model-sexual-harassment-policy).

Training (see pages 5-6)

In addition, every employer in New York State is **required to provide employees with sexual harassment prevention training**. The Department of Labor in consultation with the Division of Human Rights has established this model training for employers to use. Or, employers may use a training program that meets or exceeds the minimum standards of the model training (www.ny.gov/combating-sexual-harassment-workplace/employers#training-requirements).



Policy: Implementation

All employers must adopt and provide a sexual harassment prevention policy to all employees by **October 9, 2018**.

If you want to adopt the State Model Policy:

- The State Model Policy contains fields for you to list your business name and the name/contact information for the individual(s) you have designated to receive sexual harassment complaints. Fill in those fields and apply whatever branding (e.g., logos, etc.) you like. You may choose to modify the policy to reflect the work of your organization and industry specific scenarios or best practices.
- Distribute the policy to all employees in writing or electronically. Employers are also encouraged to have employees acknowledge receipt of the policy, and to post a copy of the policy where employees can easily access it.

If you already have a policy and do NOT want to adopt the State Model Policy:

- Use the checklist on the next page to ensure your policy meets or exceeds the required minimum standards.
- If it already meets those standards, ensure it already has been or will be distributed to employees by October 9, 2018. All future new employees should receive the policy before commencing work.
- Ensure your complaint form and process are up to date and that employees are made aware of it as part of the policy.
- If you do not have a complaint form, a model is available online: www.ny.gov/combating-sexual-harassment-workplace/employers#model-complaint-form
- Review the online FAQs, which outline numerous common questions that may arise: www.ny.gov/combating-sexual-harassment-workplace/combating-sexual-harassment-frequently-asked-questions
- Distribute a copy of your finalized policy to all employees in writing. This may be done electronically, for example, by email. Employers are also encouraged to have employees acknowledge receipt of the policy, and to post a copy of the policy where employees can easily access it.
- You are also encouraged to provide the policy and training to anyone providing services in the workplace.



If you do NOT yet have a policy:

- Download the model policy, available online: www.ny.gov/combating-sexual-harassment-workplace/employers#model-sexual-harassment-policy
- Customize the document by filling in the employer name, person or office designated to receive complaints and appropriate contact information, as highlighted throughout.
- You may choose to modify the policy to reflect the work of your organization and industry specific scenarios or best practices.
- Review the online FAQs, which outline numerous common questions that may arise: www.ny.gov/combating-sexual-harassment-workplace/combating-sexual-harassment-frequently-asked-questions
- Distribute a copy of your finalized policy to all employees in writing. This may be done electronically, for example, by email. Employers are also encouraged to have employees acknowledge receipt of the policy, and to post a copy of the policy where employees can easily access it.
- You are also encouraged to provide the policy and training to anyone providing services in the workplace.



Policy: Minimum Standards Checklist

An employer that does not use the State model policy -- developed by the State Department of Labor and State Division of Human Rights -- must ensure their policy meets or exceeds the following minimum standards.

The policy **must**:

- ☐ Prohibit sexual harassment consistent with guidance issued by the Department of Labor in consultation with the Division of Human Rights;
- ☐ Provide examples of prohibited conduct;
- ☐ Include information concerning the federal and state statutory provisions concerning sexual harassment, remedies available to victims of sexual harassment, and a statement that there may be applicable local laws;
- ☐ Include a complaint form;
- ☐ Include a procedure for the timely and confidential investigation of complaints that ensures due process for all parties;
- ☐ Inform employees of their rights of redress and all available forums for adjudicating sexual harassment complaints administratively and judicially;
- ☐ Clearly state that sexual harassment is considered a form of employee misconduct and that sanctions will be enforced against individuals engaging in sexual harassment and against supervisory and managerial personnel who knowingly allow such behavior to continue; and
- ☐ Clearly state that retaliation against individuals who complain of sexual harassment or who testify or assist in any investigation or proceeding involving sexual harassment is unlawful.



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Training: Instructions for Employers

All employers are required to train current employees by October 9, 2019. New employees should be trained as quickly as possible. In addition, all employees must complete sexual harassment prevention training at least once per year. This may be based on calendar year, anniversary of each employee's start date or any other date the employer chooses.

If you already have a training:

- Use the checklist on the next page to ensure your training meets or exceeds the required minimum standards.
- If your existing training does not, it should be updated to include all the listed elements. You may also provide supplemental training to employers who have already completed the training to ensure they have received training that meets or exceeds the minimum standards.
- Review the online FAQs, which outline numerous common questions that may arise: www.ny.gov/combating-sexual-harassment-workplace/combating-sexual-harassment-frequently-asked-questions

If you do NOT yet have a training:

- Download the model training, available online: www.ny.gov/combating-sexual-harassment-workplace/employers#training-requirements.
 - You may execute this training in a variety of ways, including live in person, via webinar or on an individual basis, with feedback as outlined in the training guidance document.
 - Depending on how you choose to present your training, you may utilize different available resources. For example, if you do a live presentation, you should download the PowerPoint and read the script that appears in the "Notes" of each slide.
 - If you choose to train employees with the video, you may direct them to watch it online or download it and show to a group, after which you would provide them a mechanism for feedback, as outlined in the training guidance document.
- Customize the training document(s) and modify them to reflect the work of your organization, including industry specific scenarios or best practices.
- The training should detail any internal process employees are encouraged to use to complain and include the contact information for the specific name(s) and office(s) with which employees alleging harassment should file their complaints.
- You may wish to include additional interactive activities as part of the training, including an opening activity, role playing or group discussion(s).



Training: Minimum Standards Checklist

An employer that does not use this model training -- developed by the State Department of Labor and State Division of Human Rights -- must ensure their training meets or exceeds the following minimum standards.

The training **must**:

- ☐ Be interactive (*see the model training guidance document for specific recommendations*);
- ☐ Include an explanation of sexual harassment consistent with guidance issued by the Department of Labor in consultation with the Division of Human Rights;
- ☐ Include examples of unlawful sexual harassment;
- ☐ Include information concerning the federal and state statutory provisions concerning sexual harassment and remedies available to targets of sexual harassment;
- ☐ Include information concerning employees' rights of redress and all available forums for adjudicating complaints; and
- ☐ Include information addressing conduct by supervisors and additional responsibilities for supervisors.

