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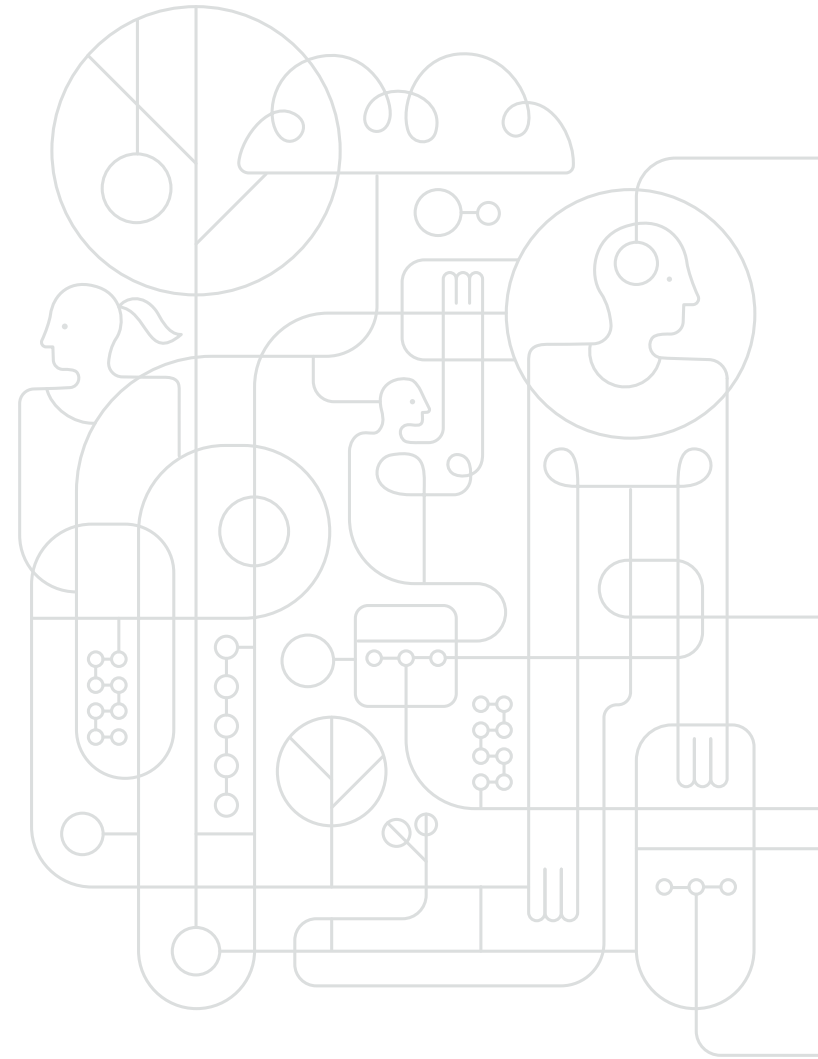
Understanding **NEW YORK'S**
Sexual Harassment Training Policies

EVERFI



Table of Contents

- 4 **Which law does my business need to follow?**
- 4 **How are “employees” defined? Do part-time employees require sexual harassment training?**
- 4 **How soon do I need to train new employees after they’re hired?**
- 5 **When do the rules go into effect?**
- 5 **What are the requirements for record-keeping and reporting to regulatory officials?**
- 6 **What kind of training is required? Online? Live?**
- 7 **What should sexual harassment prevention training teach learners?**
- 8 **Are there requirements that reach beyond the training and training content?**
- 8 **Are there any anti-harassment policy requirements for HR to follow?**



Introduction

On April 12, 2018, New York Governor Andrew Cuomo signed an expansive sexual harassment training requirement for all statewide business. The following month, New York City Mayor Bill de Blasio, passed a similar, but more ambitious mandate for businesses within the city limits.

This double jurisdictional approach—combined with many similar requirements within both laws—has understandably caused confusion amongst the city and state’s many businesses.

We’ve poured through the details and many requirements of both laws to answer businesses’ most pressing questions, providing clear-cut guidelines on how New York-based companies can stay compliant and prevent sexual harassment in their workplace.

In the following sections, we’ll go through requirements for training content, policy, communication, and other details, both for companies unfamiliar with such training initiatives, and for those seeking to create their own.



TIMELINE

- April 12, 2018**
Governor of New York Andrew Cuomo signed an expansive sexual harassment training requirement
- May 9, 2018**
City Mayor Bill de Blasio, passed a similar, but more ambitious mandate Oct 9, 2018
- Oct. 9, 2018**
Officially, New York State’s law effect with a later start date of Jan. 1, 2019 for contractors bidding on state contracts.
- April 1, 2019,**
Citywide legisla-tion takes effect later, and gives businesses until the end of the calendar year before all employees must be trained.

Which law(s) does my business need to follow?

While the presence of both city-centered and statewide training mandates may appear unusual, determining which applies to your business is not too complicated. New York City's ordinance applies to all businesses with 15 or more employees. The state's statute, meanwhile, covers all businesses with any number of employees (including employers in New York City and all employers within the state's borders). New York State's requirements also apply to companies that bid on contracts for any department within New York State, regardless of the state in which they work.

How are "employees" defined?

Do part-time employees require sexual harassment training? State-wide regulation defines "all employees" as including everyone who works or will work in the state even for a portion of their time and even if they're based in another state. Within city limits, however, "employees" include part-time employees and interns who work more than 80 hours in a calendar year and for at least 90 days. Guidance issued by the city also calls for training any employee who regularly interacts with other employees in the city, even if they are not physically present.

How soon do I need to train new employees after they're hired?

The state law requires businesses to train new employees by October 9, 2019, and encourages training as soon as possible. Under state law, employers may deem the training requirement satisfied if a new employee can verify they completed the training through a previous employer. Employers need only provide supplemental training to employees who have already completed training that did not meet all the requirements during the current year.

New York City law mandates training after 90 days of hire, unless the employee was previously trained by another employer in the same year. This may include out-of-state training, so long as the training meets the specified content requirements.

New York City's Ordinance

applies to all businesses with **15 or more** employees

The State's Statute

apply to all businesses with **any** employees

When do the training mandates go into effect?

Officially, New York State’s law takes effect Oct. 9, 2018, with a later start date of Jan. 1, 2019, for contractors bidding on state contracts. The state requires employees be trained by October 9, 2019. Additionally, the state specifies that employers can choose to measure the start and end of the yearly training cycle any way they choose, for instance by the date the anniversary of an employee’s start date, or calendar year.

Citywide legislation takes effect later, April 1, 2019, and requires employees to be trained every calendar year starting in 2019.

What are the requirements for record-keeping and reporting to regulatory officials?

New York State doesn’t specify record-keeping practices, but the city mandates employers to keep a record of all training performed—along with signed employee acknowledgments—for three years or more. Such records may be in a digital format, and must be promptly provided to city officials upon request.

Starting Jan. 1, 2019, contractors bidding on NY State contracts are required to train all employees—regardless of their location—and must certify that training has occurred on a yearly basis, under penalty of perjury. City regulators, however, merely require contractors to report their efforts relating to “preventing and addressing” sexual harassment, specifically delineating the inclusion of policies, procedures, and practices.

The city mandates employers to keep a record of all training performed for three years or more..

Contractors bidding on NY State contracts

are required to train all employees and must certify that training occurred

City regulators

require contractors to report efforts relating to preventing and addressing sexual harassment

What kind of training is required? Online? Live?

Both regulatory approaches specify that training is to be “interactive,” however both also define interactivity differently. City guidance define interactivity as teaching whereby the trainee is engaged in a trainer-trainee interaction, which makes use of audio-visuals, may be computer-based or online, or other participatory forms of training—as determined by the commission. New York State permits the training to be presented online and advises businesses to include as many of the following qualifications as possible:

- **Should question learners**
- **Accommodating to questions raised by employees**
- **Solicit feedback from employees in regards to the training program and content**

Additional state guidance provides the following examples of training formats deemed interactive:

- **Questions at the end of a section and the employee must select the right answer**
- **Option to submit a question online and receive an answer immediately or in a timely manner**
- **Provide a feedback survey for employees to turn in after they have completed the training**



What should sexual harassment prevention training teach learners?

City guidelines specify that content should convey that sexual harassment is a form of unlawful discrimination under city, state, and federal law. The state, by contrast, requires an explanation of sexual harassment that's consistent with specified state-agency guidance, in addition to state and federal statutes pertaining to sexual harassment. Both city and state law require examples of sexual harassment in the training.

According to city law, employers are required to outline the process for reporting sexual harassment within the workplace, in addition to the reporting process through the EEOC, New York State Division of Human Rights, and the New York City Commission on Human Rights. Contact information for each should be provided as well. The state requires the training to provide employees with information about their rights of redress and available forums where they can adjudicate complaints. State law additionally mandates that the training must cover the remedies available to people who have experienced sexual harassment.

The city requires the training to note that retaliation is prohibited under city law, and to include examples of retaliation.

New York City-based training must cover the concept of bystander intervention, including instructions on how to intervene should employees witness misconduct. The state, however, has no such requirements.

Lastly, city requirements detail that training must specify the responsibilities managers have to prevent sexual harassment and retaliation, including how they should handle claims. The state similarly requires information be provided that addresses conduct by supervisors and any additional responsibilities for such supervisors.



Are there requirements that reach beyond the training and training content?

Yes. New York City employers must display this [poster](#) published by the New York City Commission on Human Rights, in addition to this [Spanish-language poster](#).

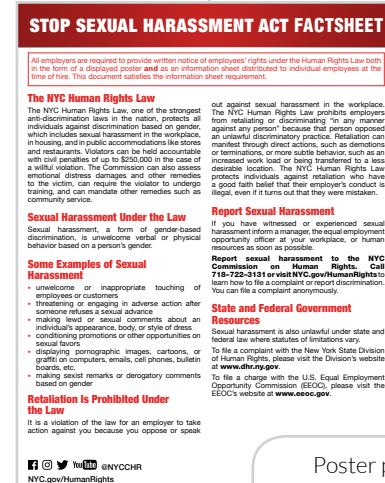
City employers are also encouraged to distribute this [fact sheet](#), which touches on much of the same material. Businesses are mandated to distribute the fact sheet to new hires, whether in a policy, an employee handbook, onboarding material, or by any print or electronic means that they ordinarily use to communicate with employees.

Are there any anti-harassment policy requirements for HR to follow?

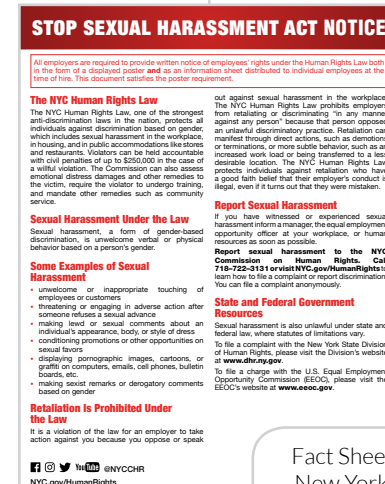
Yes. As of Oct. 9, 2018, all New York State employers are required to develop a sexual harassment prevention policy, and distribute a standardized complaint form to employees. Note, however, that the complaint form must not be required for employees seeking to file a claim. New York State mandates that the policy cover the same broad principles as the training (see above). The state additionally requires that the following features be included:

- Explicit writing that conveys the illegality of retaliation against those who file sexual harassment claims, or those who testify or assist in any legal proceeding
- Procedures for internal investigations that maintain confidentiality, are timely, and allow for due process for all parties involved
- The inclusion of a statement defining sexual harassment as a kind of employee misconduct, also explaining the consequences of such misconduct, on top of the sanctions managers receive for being aware of an incident of harassment and allowing it to continue

This information is not intended as legal advice. Please consult with legal counsel to ensure your organization's compliance with applicable legal requirements.



Poster published by the New York City Commission on Human Rights



Fact Sheet published by the New York City Commission on Human Rights



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