



LYONS MCGOVERN LLP LABOR & EMPLOYMENT ALERT

NEW YORK STATE SEXUAL HARASSMENT POLICY DEADLINE IS QUICKLY APPROACHING

As previously reported in our last Labor & Employment Alert, all New York State employers - regardless of size - must have a compliant sexual harassment policy in place by October 9, 2018. The policy can be provided to employees in hard copy or electronic form. Employers should also provide employees with the policy that is in the language that is spoken by the employee.

New York State published a draft model policy and guidelines on August 23, and they were open for public comment through September 12, 2018. The proposed model Sexual Harassment Policy can be found on the New York State website. The State said it has received hundreds of constructive and substantive comments about the policy and guidelines, and they are being reviewed and necessary revisions being considered, with finalized documents expected to be released in the near future.

Under the proposed guidelines, an employer that does not adopt the model policy must ensure that the policy that they do adopt meets or exceeds the following minimum standards:

1. prohibit sexual harassment consistent with guidance issued by the Department of Labor in consultation with the Division of Human Rights;
2. provide examples of prohibited conduct that would constitute unlawful sexual harassment;
3. 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;
4. include a complaint form;
5. include a procedure for the timely and confidential investigation of complaints that ensures due process for all parties;
6. inform employees of their rights of redress and all available forums for adjudicating sexual harassment complaints administratively and judicially;
7. 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
8. 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.

In addition to the policy requirements, all New York State employees must complete sexual harassment training by January 1, 2018, and then annually after that. For newly hired employees who start employment after January 1, 2019, training must be completed within 30 calendar days of starting their job.

**SUPREME COURT DELIVERS BIG VICTORY TO EMPLOYERS IN WAGE
AND HOUR CASES - UPHOLDS MANDATORY ARBITRATION**

In May 2018, in a 5-4 ruling, the Supreme Court handed a big victory to employers upholding the employer's rights to have employees sign agreements requiring them to resolve their class and collective action wage and hour disputes by arbitration rather than filing class actions lawsuits in court. (See *Epic Systems v. Lewis*) The ruling means employees no longer have the option to join class action lawsuits if they have signed a mandatory arbitration agreement and have to bring their claims individually.

The attorneys at Lyons McGovern LLP are available to provide assistance with guidance on both the New York State anti-harassment policy and training requirements and drafting an arbitration agreement for all employees to sign.

At Your Service

The attorneys at Lyons McGovern LLP are available to provide assistance with guidance on both New York State and New York City anti-harassment requirements, including ensuring that employers have the necessary policies in place regarding anti-harassment in the workplace and procedures to effectively respond to complaints. Lyons McGovern also provides anti-harassment training tailored to your company's specific business and needs.

Disclaimer: This Client Advisory is for educational purposes and does not constitute legal advice or an opinion. Lyons McGovern, LLP uses periodic Client Advisories to inform our clients issues which may affect them or their businesses.

Visit our Website

Lyons McGovern LLP | Phone (914) 631-1336 | Fax (914) 631-1161 | contact@lyons-mcgovern.com

STAY CONNECTED

