

New York State Publishes Proposed Updated Model Sexual Harassment Prevention Policy

Article By:

Simone R.D. Francis

Jamie Haar

In accordance with its quadrennial obligation to evaluate the impact of New York State's Model Sexual Harassment Prevention Policy in the workplace, on January 12, 2023, the New York State Department of Labor (NYSDOL), in consultation with the New York State Division of Human Rights, published a proposed [updated model sexual harassment prevention policy](#). As we [previously reported](#), effective October 9, 2018, all employers in the state of New York were required to adopt written sexual harassment prevention policies that met or exceeded the minimum standards set forth in Section 201-g of the New York Labor Law or adopt the model policy created and published by the NYSDOL.

To adapt to the ever-changing workplace, the NYSDOL has proposed the following key revisions and additions to the model policy

- outlining the purposes and goals of the model sexual harassment prevention policy and reaffirming that the policy, including its reporting and investigatory processes, applies to all forms of discrimination and harassment protected under federal, state, and local laws;
- including additional examples of sexual harassment, discrimination, and retaliation, including circumstances in which sexual harassment can occur while working remotely, including on virtual platforms, messaging applications, and when materials are visible in the background of homes during virtual meetings;
- explaining bystander intervention and providing tools and methods to use when an employee witnesses discrimination or harassment in the workplace;
- emphasizing the importance of understanding gender diversity and reaffirming that gender-based harassment and discrimination are not limited to sexual contact or sexually suggestive conduct but include gender stereotyping and treating employees differently because they identify as cisgender, transgender, or nonbinary;
- reemphasizing supervisors' and managers' responsibility to report harassment and

discrimination and explaining the need to be mindful of a possible victim's needs and to approach each situation with care and understanding;

- clarifying that intent is not a defense to harassment and discrimination and that “the impact of the behavior on a person is what counts”;
- explaining that whether conduct or behavior is unlawful is based on an objective standard and “viewed from the standpoint of a reasonable victim” of harassment and discrimination within the same protected class or with the same protected characteristics; and
- adding information regarding the New York State Division of Human Rights’ [sexual harassment hotline](#) in accordance with Senate Bill No. S812B.

Interested parties may provide feedback during a thirty-day comment period, which ends on February 11, 2023.

© 2024, Ogletree, Deakins, Nash, Smoak & Stewart, P.C., All Rights Reserved.

National Law Review, Volumess XIII, Number 24

Source URL: <https://natlawreview.com/article/new-york-state-publishes-proposed-updated-model-sexual-harassment-prevention-policy>