

STROOCK SPECIAL BULLETIN

Mayor de Blasio Signs “Stop Sexual Harassment in NYC Act”

May 10, 2018

On May 9, 2018, Mayor Bill de Blasio signed the Stop Sexual Harassment in NYC Act (the “Act”), a package of 11 bills that contain, among other things, provisions:

- Requiring all private employers with 15 or more employees to conduct annual anti-sexual harassment training for *all* employees (including interns);
- Permitting claims of gender-based harassment by *all* employees, regardless of the size of the employer;
- Extending the statute of limitations for filing complaints with the New York City Commission on Human Rights (the “City Commission”) from one year to three years;
- Requiring employers to display an anti-sexual harassment rights and responsibilities poster and distribute an information sheet on sexual harassment to new hires; and
- Requiring city contractors to include, as part of an existing report required for certain contracts, their practices, policies and procedures “relating to preventing and addressing sexual harassment.”

Mandatory Sexual Harassment Training

The Act adds a new subdivision 30 to Section 8-107 of the New York City Administrative Code, which becomes effective April 1, 2019. The new provision requires private employers with 15 or more employees to conduct annual interactive anti-sexual harassment training for all employees. The training must not only be interactive – meaning the employee is engaged with the trainer through the use of audio-visuals or other participatory forms of training – but also must include the following:

- (1) an explanation of sexual harassment as a form of unlawful discrimination under local, state and federal law;
- (2) a description of what sexual harassment is and is not, using examples;
- (3) a description of any internal complaint, processes available to employees as well as a description of the complaint processes available through the City Commission and the United States Equal Employment Opportunity Commission;
- (4) a discussion of the prohibition of retaliation, and examples thereof;

(5) information concerning bystander intervention, including, but not limited to, resources that explain how to engage in bystander intervention; and

(6) the specific responsibilities of supervisory and managerial employees in the prevention of sexual harassment and retaliation and measures that such employees may take to appropriately address sexual harassment complaints.

To assist employers, the City Commission will develop online, interactive training modules to satisfy these requirements.

The recently enacted New York State Budget (the “Budget”) also requires employers to provide a sexual harassment prevention training program.¹ Like the Act, the Budget requires that the State Department of Labor and Division of Human Rights develop model programs for employers. It remains to be seen how the training programs developed by the State and the City will overlap or whether one model will satisfy the requirements of the other law.

Amendments to the New York City Human Rights Law

The Act also amends the New York City Human Rights Law (“NYCHRL”), requiring the City Commission to expand its policy statement to expressly include sexual harassment as a form of discrimination. The NYCHRL was further amended to permit claims of gender-based harassment by *all* New York City employees, regardless of the size of the employer and also to extend the statute of limitations to three years for filing complaints with the City Commission. These amendments are effective immediately.

¹ “Governor Cuomo Signs 2019 Budget Bill With Significant Provisions Addressing Workplace Sexual Harassment Claims,” *Stroock Special Bulletin*, April 17, 2018, available at <https://www.stroock.com/siteFiles/Publication/s/CuomoSigns2019BudgetBillModelHarassmentPolicy.pdf>.

Employers with fewer than four employees are not considered an “employer” under the NYCHRL. The Act changes that for gender-based claims. Now, any private employer, regardless of the number of persons they employ, may be subject to an action for unlawful discriminatory practice based on a claim of gender-based harassment.

In addition, claims of “harassment based on unwelcome conduct that intimidates, interferes with, oppresses, threatens, humiliates or degrades a person, based in whole or in part on such person’s gender” may now be filed with the City Commission for up to three years after the alleged conduct. This is an increase from the previous one-year and is coterminous with the limitations period for filing claims in court.

Posting and Notice Requirements

The Act further amends the New York City Administrative Code to require *all* private employers, regardless of the number of persons employed, to post an easily understood anti-sexual harassment rights and responsibilities poster that will be created by the City Commission. Employers will also be required to provide employees with an information sheet covering the same topics as included in the posting, also to be developed by the City Commission. These amendments become effective on September 6, 2018.

Requirements for City Contractors

Those employers who serve as contractors or subcontractors of the City will now be required to include their employment practices, policies and procedures as they relate to preventing and addressing sexual harassment as part of the employment report required by the New York City Charter. This amendment becomes effective on July 8, 2018.

Comments

These amendments will impact all private employers throughout New York City. Employers will need to ensure that their practices, policies

and procedures comply not only with the Stop Sexual Harassment in New York City Act, but also with the recent amendments to the New York State law included in the Budget. Notably, the training and policy mandates of the State law take effect on October 9, 2018, well in advance of the April 1, 2019 effective date for mandatory, interactive training under the Act.

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