

# New York City Issues Final Guidance on Sexual Harassment Training Requirements

**Law and the Workplace** on **April 2, 2019**

As we [previously reported](#), New York City has enacted the Stop Sexual Harassment in NYC Act, which is a package of bills aimed at addressing and preventing sexual harassment in the workplace. Effective **April 1, 2019**, all New York City employers with 15 or more employees (including interns) are required to conduct annual anti-sexual harassment training for all employees, including supervisory and managerial employees, as well as part-time employees, seasonal employees and independent contractors (who perform work in furtherance of the business) who work more than 80 hours in a calendar year and for at least 90 days.

The City has now issued an online training module and updated FAQs on the new law. More information about the law can also be found on the City's website, available [here](#), including training resources and references, as well as copies of the [required notices](#) and [factsheet](#).

## *Model Sexual Harassment Training*

The City's online training module, which takes about 45 minutes to complete, includes information on the following topics: (i) an explanation of sexual harassment, as well as gender, gender identity and expression, and sexual orientation; (ii) internal and external complaint procedures; (iii) the prohibition on retaliating against employees who raise complaints; (iv) bystander intervention; and (v) the responsibilities of supervisory and managerial employees to prevent sexual harassment and retaliation, including measures to appropriately address sexual harassment complaints.

To satisfy the requirement that the training be interactive, individuals who take the City's online training must answer several questions based on various hypotheticals used throughout the training program. After completing the training, individuals can print or save a certificate of completion.

Of course, the City's guidance also makes clear that employers may develop their own training or use an outside party to provide the required training as long as it satisfies the minimum standards set forth by the City and State. Those minimum standards can be found [here](#).

### *FAQs*

The FAQs make clear that employers are required to train employees each calendar year. Among other things, the FAQs state that employers must satisfy the initial training requirement by **December 31, 2019**. This date is noteworthy because the statutory language does not establish a deadline for employers to conduct the first annual training, except to state that the training must be provided annually. Moreover, while the statute provides that new employees be trained after 90 days of initial hire, the FAQs suggest that new employees be trained as soon as possible because employers may be liable for sexual harassment by new employees immediately upon hire. The FAQs also indicate, however, that employees who received anti-harassment training that satisfies the City's requirements at any point in 2019 are not required to receive training until the next annual training cycle.

The FAQs also go on to indicate that employees who are connected to New York City "in any way" must be trained. This includes (1) employees who work or will work in New York City; (2) employees who work a portion of their time in New York City; and (3) employees who are based elsewhere but who interact with other employees in New York City (even if they are not physically present in the City). This guidance on who must be trained is also notable because the statute does not address training out-of-state employees who only interact with employees in New York City. Instead, the statute provides that an employer who is "subject to training requirements in multiple jurisdictions" may demonstrate compliance with the City law provided that the minimum standards for the City training are met and that such training is provided annually.

The following are some additional highlights from the FAQs:

- Employers are required to maintain records of all trainings for at least three years. This record may be a certificate or a signed employee acknowledgement, and may be paper or electronic.
- If an employer uses the City's model training and has multiple employees taking the training at once, the employer must keep an independent record of who has

taken the training and when the training was given (e.g., using a sign in sheet that employees sign and date). Employers are responsible for collecting certificates of completion and, according to the FAQs, the Commission will not retain any records of who completes the training.

- Employees or independent contractors who were trained at a different employer during the calendar year need not be retrained. However, the FAQs suggest that if an employee is not able to provide documentation that they have completed training, employers should have the employee retrained.
- If an employer requires their employees to take the training outside of their regular work hours – for example, on their personal phones or laptops before the start of a shift – they must be paid for their time.

Although employers have until the end of the year to comply with the training requirements, it is prudent for employers who have not already done so to plan for meeting their training obligations, particularly given the [New York State training requirements](#), which require compliance by **October 1, 2019**.

As always, Proskauer attorneys are standing by to provide guidance and answer questions you may have regarding these new requirements.

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