

New York State Adopts Updates to Model Sexual Harassment Prevention Policy

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On April 11, 2023, the New York State Department of Labor (NYSDOL) finalized updates to the state's "[Sexual Harassment Model Policy](#)," that provides employers a template to aid their compliance with New York State laws prohibiting sexual harassment in the workplace. The department further released an updated training video and new model training presentation slides that incorporate the additions to the new policy.

The updated model policy, which was developed in collaboration with the New York State Division of Human Rights (NYSDHR), follows NYSDOL's quadrennial obligation to evaluate the impact of the state's model sexual harassment policy. Under a law that went into effect on October 9, 2018, employers in New York State are required to either implement written sexual harassment prevention policies that meet or exceed the minimum standards set forth in Section 201-g of the New York Labor Law or adopt the model policy published by the NYSDOL.

In announcing the updated model policy, New York State governor Kathy Hochul stated that the updated model policy is part of an effort to "overhaul [New York State's] policies to give New Yorkers the strongest protections against workplace harassment and abuse."

The final updated policy tracks the [proposed updates released in January 2023](#), which proposed several key revisions to the prior model policy. Those revisions included additional examples of sexual harassment, discrimination, and retaliation that illustrate how issues can occur even with employees working remotely and on virtual platforms. The revisions further emphasized that gender-based harassment and discrimination can include conduct beyond sexual contact or sexually suggestive conduct, including stereotyping or treating employees differently because they identify as cisgender, transgender, or nonbinary.

The final updated model policy makes one key change from the proposed updates, amending language regarding reporting harassment to the Equal Employment Opportunity Commission (EEOC). Specifically, the final updated model policy highlights the EEOC's conciliation program pursuant to which the agency will first seek a voluntary settlement with the employer before issuing a right to sue letter, which gives a complainant permission to file a lawsuit in federal court. If no settlement is reached, "the EEOC (or the [U.S. Department of Justice (DOJ)] in certain cases) will decide whether to file a lawsuit," the final updated model policy states.

Key Takeaways

New York employers may want to review their sexual harassment policies and ensure that they meet the minimum standards outlined in the updated model policy. NYSDOL provided links to download the updated model policy and other training materials on [New York State government website](#).

Ogletree Deakins' [New York office](#) will continue to monitor developments with respect to the model policy and will provide updates on the [New York](#) blog as additional information becomes available. Important information for employers is also available via the firm's [webinar](#) and [podcast](#) programs.