



## Expanded Anti-Harassment Laws **New York to Increase Potential Employer Liability**

Last week, the New York State Legislature [passed](#) several [bills](#) that would expand the State's anti-harassment laws and apply to all employers in the State. The reforms are designed to offer new protections for victims. Governor Cuomo is expected to sign the bills into law.

Under the new bills, an employer may be liable for discriminatory practices that subject an employee to harassment based on an individual's membership in a protected class as well as participation in or opposition to a harassment proceeding. The new bill would lower the standard at which victims of sexual harassment can bring claims. To merit action currently, that action is required to be severe and pervasive.

It would no longer be determinative for an employer's liability if an employee doesn't report harassment according to the employer's procedure. This means that an employer cannot escape liability for harassment merely because an employee did not use an employer-provided complaint procedure to report alleged harassment.

The new law would also:

- Provide domestic workers and non-employees with the same protections against harassment as employees;
- Expand the statute of limitations for sexual harassment claims to three years;
- Allow courts to award punitive damages for any type of employment discrimination by a private employer, and require the awarding of attorney's fees to the prevailing party;
- Prohibit non-disclosure agreements (NDAs) in all employment discrimination claim settlements, unless the complainant expressly requests to have an NDA;
- Expand the prohibition against mandatory arbitration clauses in sexual harassment settlements to apply to all discrimination claims;
- Require employers to provide each employee with a notice of the employer's sexual harassment policy at the time of hiring and at its annual required employee training;
- Mandate that the State's Human Rights Law be liberally construed to deter discriminatory conduct.

The majority of the above provisions would take effect 60 days after enactment, except for the expanded statute of limitations, which would take effect one year after enactment.

Separately, New York employers are already [required](#) to have adopted, promulgated and distributed sexual harassment prevention policies. Training must be completed by October 9, 2019.

Now is the time to update your policies and procedures to ensure compliance with the above provisions. Please call or [email](#) our office with any questions you may have.

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