



The final 2018-19 New York State budget includes a package of new provisions aimed at combatting sexual harassment in the workplace. Please find a summary of these provisions below:

- Require state contractors to submit an affirmation that they have a sexual harassment policy and that they have trained all of their employees:
  - When competitive bidding is required the bid must include the following statement of certification: “By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that the bidder has and has implemented a written policy addressing sexual harassment prevention in the workplace and provides annual sexual harassment prevention training to all of its employees. Such policy shall, at a minimum, meet the requirements of section two hundred one-g of the labor law.”
  - When competitive bidding is not required it is at the discretion of the department, agency or official if the above statement of certification is contained in the bid
  - This provision shall take effect January 1, 2019
- Prohibit employers from using a mandatory arbitration provision in an employment contract in relation to sexual harassment complaints
  - The prohibition does not apply when inconsistent with federal law
  - This provision shall take effect on the 90<sup>th</sup> day after it becomes law
- Require current and former employees of the state or any public entity who are found guilty of intentional wrongdoing related to sexual harassment to reimburse the state or public entity:
  - The employee shall personally reimburse the state or public entity within 90 days of the payment
  - This provision shall take effect immediately upon becoming law

- Ensure that nondisclosure agreements can only be used when the condition of confidentiality is the explicit preference of the victim
  - This provision will impact all employers
  - This provision shall take effect on the 90<sup>th</sup> day after it becomes law
- Requires all employers to establish sexual harassment prevention policies and training programs
  - The Department of Labor and the Division of Human Rights will develop a model sexual harassment prevention policy and training program that will be posted on their websites
  - Employers must establish a sexual harassment prevention policy and training program that either meets or exceeds the minimum standards established in the model
  - The sexual harassment policy must be provided to all employees in writing
  - Employers must provide sexual harassment prevention training annually
  - This provision shall take effect 180 days after it becomes law but effective immediately the Department of Labor and the Division of Human Rights are authorized to create the model sexual harassment prevention policy and training program
- Amend the law to protect non-employees in the workplace from sexual harassment
  - This would make it an unlawful discriminatory practice for an employer to permit sexual harassment of non-employees in the workplace when the employer knew or should have known about a non-employee being subjected to sexual harassment and they failed to act
  - Non-employees include contractors, subcontractors, vendors, consultants or others providing services in the workplace
  - This provision shall take effect immediately upon becoming law