New Sexual Harassment Law update & Your Exposure to Employment Practices Liability

Holiday Inn| November 1, 2018
Rich MacDonald
Welcome
Christa Cook
NYS Sexual Harassment Law Update
New York’s Sexual Harassment Law Update-
State-Required Policies and Training

November 1, 2018
Christa Cook, Esq.
Prevalence of Sexual Harassment

- EEOC’s Select Task Force on Workplace Harassment (June 2016)
  o 25% of women report experiencing “sexual harassment”
  o 40% of women report experiencing sexually-based behaviors, such as unwanted sexual attention or sexual coercion
  o 60% of women report experiencing unwanted sexual attention, sexual coercion, or other sexist or crude/offensive behavior
  o The Task Force laid out the prevalence of harassment, the degree of under-reporting and recommendations for addressing the problem.
Prevalence of Sexual Harassment

• EEOC’s FY 2018 Statistics
  - Compared to FY 2017, charges filed with the EEOC alleging sexual harassment increased by more than 12 percent in FY 2018.
  - Compared to FY 2017, the EEOC filed 50 percent more lawsuits against employers alleging sexual harassment in FY 2018.
    - 41 out of the 66 harassment lawsuits filed by the EEOC in 2018 involved sexual harassment
  - These statistics roughly tracked the Harvey Weinstein saga (which was reported by the New York Times in October 2017) and the #MeToo movement.
NEW LEGISLATIVE REQUIREMENTS FOR EMPLOYERS IN NY
New York’s Legislative Action

- Impacts both private and public sector employers
- Restricts use of mandatory arbitration and non-disclosure provisions for sexual harassment claims
- Requires adoption of compliant sexual harassment policies
- Requires annual sexual harassment training
NEW PROTECTIVE MEASURES FOR WORKERS
Mandatory Arbitration Prohibition

- Contracts cannot require mandatory arbitration to resolve sexual harassment claim
  - Effective July 11, 2018
- Applies to all employers
- Two exceptions
  - Where inconsistent with federal law
  - Collective bargaining agreements are controlling where they conflict with this law
Limited Nondisclosure Provisions

- Employers cannot require nondisclosure provision to resolve sexual harassment claims
  - Effective July 11, 2018
- May only include if complainant’s preference
- Set 3-step process for documenting preference
  - Full 21 days to consider
  - Written agreement reflecting preference
  - 7 days to revoke
- Must have two separate written documents
Claims By Non-Employees

• Employers may be held **liable** to **non-employees** for sexual harassment where:
  o Non-employee is contractor, subcontractor, consultant or other person providing services pursuant to a contract (or any employees of the foregoing),
  o Employer (or its agents/supervisors) knew or should have known of harassment, and
  o Employer failed to take immediate and appropriate corrective action

• Effective April 12, 2018
COMPLIANCE WITH NEW TRAINING REQUIREMENTS
When to Train?

- Employers are required to provide annual harassment prevention training
  - Remember: training time is generally compensable

- According to NYS:
  - Employees must receive training prior to October 9, 2019, and once per year thereafter
    - Annual training can be based on calendar year, employee start date, or any other date employer chooses
  - New employees should be trained “as soon as possible”
Who to Train?

- **All workers**, regardless of immigration status
  - Includes full-time & part-time employees, seasonal workers and temporary employees
- Employees based outside of NY must be trained if they work a portion of their time in NY
  - Not required to train employees who work exclusively in another state
- Minors must be trained, but may receive simplified, compliant training
- May provide separate training for supervisors
- Note: Training should be in language spoken by employees.
What Should Training Cover?

• All employers must either:
  o Utilize the model sexual harassment prevention training program; or
  o Establish a training program that equals or exceeds minimum standards set by NYS

• NYS published final “Model” training program on October 1, 2018

• If already trained this year, may be able to supplement to cover any omitted minimum requirements
Minimum Standards for Training

- **Must be interactive** – for example:
  - Web-based with questions – employee must select correct answers to complete training
  - Web-based with option to submit question and receive immediate or timely answer
  - Live training (in person, by phone, by video) where presenter asks employees questions or vice versa
  - Web-based or in-person training with feedback survey for employees to complete
- **Watching a video or reading a document is not interactive**
Minimum Standards for Training (cont.)

• Must include:
  o Explanation of sexual harassment consistent with guidance by NYDOL and NYDHR
  o Examples of prohibited conduct
  o Information about federal and state statutory provisions concerning sexual harassment
    – Remedies available to victims
    – Rights of redress
    – All available forums for adjudicating complaints
  o Information addressing supervisor conduct and responsibilities
NY’s “Model” Training

Model Sexual Harassment Prevention Training

OCTOBER 2018 EDITION
Model Training

- New York has provided:
  - 17-page Script
  - 32-page Powerpoint
  - 66-page Case Studies

- Some sections in model training exceed minimum requirements
  - Not required, but State “strongly recommended” including those sections in your training
Concerns re: Model Training

• Case studies not tailored to suit your particular organization and operations
• Does not contain relevant examples
• Perpetuates sexist stereotypes
  o Insufficiently inclusive of same-sex and other situations and therefore subject to criticism (i.e., perpetuating stereotypes)
• Describes formulaic, inflexible process that may deter reporting
• Not engaging
Training Goals

- Educate as to the organization’s conduct expectations
- Foster a corporate culture where employees are encouraged to speak up on behalf of themselves and others and to “boundary set”
- Foster a corporate culture where employees are willing to adjust their behaviors to accommodate others’ thresholds of tolerance
Training Goals (cont.)

• Educate about the mechanics of making a report
• Assure all employees that reports will be **taken seriously** (a complainant’s concern) **but also** that reports will be **fairly investigated** (a respondent’s concern)
• Promptly identify and eradicate workplace harassment
• Create appropriate documentation
Best Practices for Training

- Train supervisors and non-supervisors separately
- Live training is best but not always practicable
- Incorporate your organization’s harassment policy and procedures into the training materials
  - Don’t use a generic third party training
- Keep it engaging and fresh – the law is dynamic
- Use examples appropriate for your workplace
- Set the bar: respectful workplace 100% of the time
COMPLIANCE WITH NEW POLICY REQUIREMENTS
Sexual Harassment Policy

- Employers required to adopt and distribute a new written sexual harassment prevention policy
- Must “equal or exceed” minimum standards set by New York State
- Final “Model” policy published on October 1, 2018
- **Policy should already be in place (Deadline: October 9, 2018)**
Minimum Policy Standards

• Sexual harassment prevention policy must include:
  o Prohibition of sexual harassment consistent with guidance issued by NYDOL and NYDHR
  o Examples of prohibited conduct that constitutes unlawful sexual harassment
  o Information about statutory provisions concerning sexual harassment, remedies available to victims, and a statement that there may be applicable local laws
  o Procedure for timely and confidential investigation of complaints that “ensures due process for all parties”
Minimum Policy Standards (cont.)

• Sexual harassment prevention policy must include:
  o Information regarding employees’ rights of redress and all available forums for adjudicating harassment complaints
  o Harassment complaint form
    – Minimum Standards: “The policy must . . . include a complaint form . . .”
    – FAQs: “Q6 Does the complaint form need to be included, in full, in the policy? A6 No. Employers should, however, be clear about where the form may be found, for example, on a company’s internal website.”
Minimum Policy Standards (cont.)

• Sexual harassment prevention policy must include:
  o Statement that sexual harassment constitutes employee misconduct and that sanctions may be imposed against harassers and against supervisors/managers who knowingly allow such behavior to continue
  o Statement that it is unlawful to retaliate against individuals who complain of sexual harassment or who testify or assist in any investigation or proceeding involving sexual harassment
Distribution/Posting—What’s Legally Required?

- Must be provided to all employees by October 9, 2018
- No signed acknowledgment required, but is “encouraged”
- May be distributed electronically if workers can access it on a computer provided by the employer during working time and are able to print a copy
- Not required, but “encouraged” to post policy “where employees can easily access it”
  - (Best practice to post policy on bulletin board and/or intranet)
- Not required, but “encouraged” to provide copy of policy to non-employees who render services in the workplace
NYS “Model” Sexual Harassment Policy

Introduction

[Employer Name] is committed to maintaining a workplace free from sexual harassment. Sexual harassment is a form of workplace discrimination. [Employer Name] has a zero-tolerance policy for any form of sexual harassment, and all employees are required to work in a manner that prevents sexual harassment in the workplace. This Policy is one component of [Employer Name’s] commitment to a discrimination-free work environment.
Model Policy Concerns

- The model policy contains very serious deficiencies that raise significant concerns:
  - Contains unclear provisions, including reference to “due process” for “all” parties
    - What does this mean?
  - Is long and excessively legalistic
  - Emphasizes written complaints
  - May create unnecessary legal exposure
  - May conflict with other legal obligations
  - Contains flawed investigative process
Best Practices for Policies

- Expressly state employer’s prohibition of harassment based on individual’s protected status, and its commitment to harassment-free workplace
- Commitment from senior leadership
- Affirmatively encourage employees to report any workplace concerns
- Address confidentiality
Best Practices for Policies (cont.)

• Make clear that policy applies to:
  o harassment by supervisors, co-workers, and others doing business with the employer
  o conduct at work, work-related settings and other situations outside of work

• Explain that not all objectionable conduct (even when warranting disciplinary action) constitutes unlawful harassment
Best Practices for Policies (cont.)

• Describe what constitutes unlawful harassment
• Provide relevant examples (e.g., in-person behavior, conduct that occurs outside of the workplace, text messages, social media posts)
• Establish a reporting procedure, with clear instructions and multiple different reporting avenues
• Establish an appropriate investigatory procedure
Best Practices for Policies (cont.)

• Address and expressly prohibit retaliation
• Specify consequences (for both employees and non-employees) for non-compliance
• Do not:
  o Give examples of behavior that does not constitute harassment
  o Require victim to confront harasser
  o Use excessive detail in describing investigation process
  o Overstate consequences of making a false report
General Anti-Harassment Policy v. Sexual Harassment Policy

• One Policy or Two?
  o Employers must consider whether they want to adopt a single combined policy addressing sexual harassment with other forms of harassment, or a stand-alone sexual harassment prevention policy

• If you do one policy, include up-to-date listing of protected status under the law (and a catch-all provision)
Investigation Practices/Tips

• What is a Complaint?
  o Written or verbal communication from employee specifically outlining objectionable conduct; employee verbally states he/she has been treated badly or unfairly; supervisor reports that inappropriate acts of misconduct have occurred

• Regardless of the form, employers have a legal duty to conduct a fair, thorough, and prompt investigation. Consider interim measures.
  o Work/supervision reassignment or relocation; emotional support; communication restrictions; paid leave; suspension of accused (pending investigation); work from home; EAP referral
Investigation Practices/Tips

• Communicate results in timely fashion to accuser and alleged harasser
• Implement corrective action to end inappropriate conduct and deter future similar conduct, where needed
• Avenue to mitigate potential employer liability
Takeaways

- Draft, review and/or revise your harassment policy to comply with the minimum standards
  - Have policy reviewed by counsel
- Determine how you will ensure nonemployees performing services in the workplace pursuant to a contract will be informed of your harassment policy and reporting procedure
- Develop and implement a plan to train all your employees
QUESTIONS?

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Celebrating 90 Years

Chris Lavelle
Employment Practices Liability Insurance
Employment Practices Liability

Chris Lavelle, CPCU, RPLU
Second Vice President, EPL Product Leader/Underwriter
USLI, A Berkshire Hathaway Company
Agenda

- **The NEED for EPL coverage**

- **Trends**: Where do the claims come from?
  - Federal/State
  - HIGHLIGHT: FLSA/W&H; #metoo/#TimesUp

- **Coverage**: Important Features of EPL Policies
  - Underwriting Factors

- **Claims Examples & Risk Management**:
  - EPL Claims Examples
  - Value Added Services
What is EPL?

EPL provides protection for an employer against claims made by:

- Employees
- Former Employees
- Potential Employees
- Third Party customer, vendor, clients*

Covered EPL allegations may include:

- Discrimination
- Harassment
- Wrongful Termination
- Sexual Harassment
- Retaliation
- Wage and hour violations
- Other Employment-related allegations
Need

- Costly to defend
- Expanding interpretation of laws
- Increasing employee awareness
- Increasing awareness of legal profession
- Graying and diversity of workforce
Rising Cost of Employment Litigation

EEOC Charges By Type 1997-2016

- Age
- Race
- Disability
- Sex
- Retaliation
Cost of Defending EPL Claims

- An employer is more likely to have an EPL claim than a general liability or property loss.
- Last year 40% of all employment lawsuits were brought against small businesses with under 100 employees.
- 67% of discrimination cases settled by jury verdict are in the plaintiff’s favor.
Cost to employers

$15,000-$25,000
81%

$125,000
25%

$500,000

$2,882
Federal Laws

Title VII of the Civil Rights Act of 1964 as Amended by Civil Rights Act of 1991

- Prohibits discrimination because of race, color, religion, sex, national origin, pregnancy in hiring, firing, compensation and in any term or condition of employment. Created the need for EPL policy
- 1991 - Jury trial, punitive and damages for emotional distress
- Applies to employers with 15 or more employees

Age Discrimination in Employment Act of 1967 (ADEA)

- Prohibits discrimination of applicants or employees over 40
- Applies to employers with 20 or more employees

Americans with Disabilities Act of 1990 (ADA)

- Prohibits discrimination against a qualified individual because of a disability
- “Qualified individual” – can perform essential functions with or without a reasonable accommodation
- “Disability” – physical or mental impairment that substantially limits major life activity; a record of an impairment; or a perception of an impairment
- Applies to employers with 15 or more employees

Family Medical Leave Act of 1992 (FMLA)

- Up to 12 weeks of unpaid leave for family and medical emergencies
- Includes adoption, childbirth, placement of foster children and serious health conditions
- Applies to employers with 50 or more employees
Other EPL Exposures

Wrongful Termination
- Breach of contract
- Violation of public policy
- Refusing to engage in unlawful activity
- Reporting employer wrongdoing
- Exercising a protected right

Sexual Harassment/Workplace Harassment
- Unwelcome sexual advances, requests for sexual favors and verbal, visual or physical conduct
- May be part of gender discrimination claim
- Employer may be liable when there is no adverse tangible employment action
- Acts that create a hostile or offensive work environment

Retaliation
- Employee engaged in a protected activity
- Employee suffered an adverse action
- Causal connection between adverse action and protected activity
Fair Labor Standards Act - Background

- Federal statute signed into law in 1938
- Part of FDR’s New Deal
- Intended to protect workers and stimulate the economy following the Great Depression
- The U.S. economy has evolved over the years and the FLSA has not followed suit
Requirements Imposed by the FLSA

Basic Provisions:

• Implemented a federal minimum wage
• Established a 40-hour work week and overtime pay
• Prohibited use of “oppressive child labor”
• Employment recordkeeping requirements
• Created the Wage and Hour Division (WHD) within the Department of Labor to administer and enforce the act.
  • Two year statute of limitation for honest mistakes
  • Three year statute of limitation for willful violations
Exempt or Non-exempt Employee?

Exempt
• Employees are those who are exempt from certain wage and hour laws, i.e. overtime pay; usually but not always applies to executive, administrative, professional, highly compensated, outside sales and certain computer professional employees.

Non-exempt
• Employees may receive hourly wage or be salaried and are subject to wage and hour laws, i.e. overtime pay and; usually applies to non-professional employees. The FLSA requires employers to pay employees at least 1.5 times their hourly pay rate for hours that they work over 40 hours in a given week.

✓ Employees and enterprises engaged in interstate commerce with annual sales of at least $500,000 or those engaged in the operation of a hospital, institution for the sick, a school or public agency

✓ Only employees are covered, not independent contractors
A Serious Threat for Employers

- Wage and hour lawsuits increased 432 percent from 1993-2013
- The Department of Labor Wage and Hour Division (WHD) have recovered **$1.3 billion** back wages since 2009.
- The WHD found violations in 78 percent of agency-initiated investigations in Fiscal Year 2014, up from 65 percent in 2009
#MeToo & #TimesUp

81% of women and 43% of men said they had experienced some form of sexual harassment or assault in their lifetime.
#MeToo & #TimesUp

What Happened, and to Whom
Percent who say they have experienced:

<table>
<thead>
<tr>
<th></th>
<th>Women</th>
<th></th>
<th>Men</th>
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<tbody>
<tr>
<td>Verbal sexual harassment</td>
<td></td>
<td></td>
<td>34%</td>
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<tr>
<td>Unwelcome sexual touching</td>
<td>51%</td>
<td></td>
<td>17%</td>
</tr>
<tr>
<td>Online sexual harassment</td>
<td>41%</td>
<td></td>
<td>22%</td>
</tr>
<tr>
<td>Being physically followed</td>
<td>34%</td>
<td></td>
<td>12%</td>
</tr>
<tr>
<td>Genital flashing</td>
<td>30%</td>
<td></td>
<td>12%</td>
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<tr>
<td>Sexual assault</td>
<td>27%</td>
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<td>7%</td>
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</table>
## Coverage Features: Insuring Agreement and Other Key Provisions

### Claims Made Coverage
- When is the claim made?
- When reported?
- When did the act occur?
- When did the insured know?

### Defense Provisions
- Duty to defend
- Indemnification

### Limits
- Per Claim and Aggregate

### Retention
- Applies to each claim.
- Commonly no aggregate retention or cap

### Claim Reporting Extension
- Extend policy provisions
- Claims made after policy ended
- Wrongful Acts occurred before policy ended

### Representations and Severability
- Reliance on the application
- Materiality Statements
- Affect acceptance, pricing or terms
- Imputation Provisions
- Who knew
Exclusions

**Covered elsewhere**
- Bodily Injury & Property Damage
- ERISA & Workers Compensation benefits

**Uninsurable**
- Criminal, Fraudulent, Dishonest conduct

**Business Risk**
- Fair Labor Standards Act (FLSA) obligations
- Liability assumed under contract
- National Labor Relations Act violations
## Coverage Highlights - USLI

<table>
<thead>
<tr>
<th>Feature</th>
<th>Description</th>
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<tr>
<td><strong>W&amp;H Sub-limit</strong></td>
<td>• $100,000 defense and indemnity (n/a CA and FL)</td>
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<tr>
<td><strong>Defense outside the limit</strong></td>
<td>• $500k limit or higher is purchased and under 200 employees</td>
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<tr>
<td><strong>Retentions beginning as low as $1,000</strong></td>
<td>• Many EPL markets have started enforcing high retentions on small businesses who simply do not have the cash flow</td>
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<td><strong>Full Prior Acts</strong></td>
<td>• Available for most claims-free classes of business</td>
</tr>
<tr>
<td><strong>Third Party Coverage</strong></td>
<td>• 10% additional premium, available for most classes of business</td>
</tr>
<tr>
<td><strong>Punitive damages with most favorable venue wording</strong></td>
<td>• States that restrict coverage for punitive damages: AL, CA, DC, HI, NY, OH, RI, WV</td>
</tr>
<tr>
<td><strong>Instant quoting capabilities and short application</strong></td>
<td>• Only 4 pieces of info needed: 1) Name 2) State 3) Class of Business 4) Number of Employees</td>
</tr>
</tbody>
</table>
What does your BOP include?

- **Limits?**
- **Third Party Liability?**
- **Coverage for Wage & Hour?**
- **Defense costs inside or outside the limit?**
- **Prior acts coverage?**
- **Risk management services?**
Underwriting Factors

- Type of Business
- Location
- Management Experience
- Subsidiaries and Affiliated Firms
- Financial Condition
- Management Practices
- Salary Levels
- Number of Employees
EPL Claims Trends

- #MeToo #Times Up
- Wage & Hour Lawsuits
- Pregnancy Discrimination
- Employee Classification
  - Dual Employer relationship
  - Independent contractors
- Transgender Discrimination
- “Drive-by” ADA claims
- ADA Website accessibility lawsuits
How an Employer Can Avoid an EPL Claim

- Create effective hiring and screening programs to avoid discrimination in hiring
- Post corporate policies throughout the workplace and place them in employee handbooks so policies are clear to everyone
- Show employees what steps to take if they are the object of sexual harassment or discrimination by a supervisor. Make sure supervisors know where the company stands on what behaviors are not permissible
- Document everything that occurs and the steps the company is taking to prevent and solve employee disputes
- Minimize impact of claims that do occur
Best Practices for Business Owners
Good Risk Management

- Strict, well communicated procedures for payroll practices and time reporting obligations
- Mechanisms in place for employees to report if they think they are misclassified or underpaid
- Implement clear policies and procedures for overtime and other issues
- Train employees, managers and human resources personnel
- Conduct annual payroll audits
- Get legal advice
Best Practices for Business Owners
Risk Transfer – Buy EPL Insurance!

➢ Considered employees another business risk

➢ Employment Practices Liability Insurance with USLI’s FLSA solution!
  • $100,000 sub-limit for defense and indemnity of wage and hour violations (n/a CA and FL)
    ▪ Due to the drastic increase in reported violations, most carriers offer defense-only coverage
Best Practices for Business Owners
Risk Transfer – Buy EPL Insurance! (cont.)

- Business Resource Center with free access to PeopleSystems, a national HR consulting firm

www.peoplesystems.com/usli
The Business Resource Center offers a variety of services available on all USLI products including:

- Human Resources Services
- Pre-Employment & Tenant Screenings
- Identity Theft Protection
- Marketing Resources
- More Great Stuff
- Collection Services
- Business Administration Resources
- Alcohol Safety Training
The Business Resource Center only works to win business when it is a part of your sales discussion.

Every quote includes an attachment promoting this message after the pre-filled application.

Our cost calculator can show your clients how to save big!
Questions?
This presentation is intended for the sole purpose of providing a quick reference tool concerning the insurance product(s) described herein. The descriptions contained herein are not intended to be complete descriptions of all terms, exclusions and conditions in applicable policies, but are solely provided as general descriptions of the coverage, rates, eligibility criteria and other underwriting considerations involved. Descriptions contained herein are general and informational only and are not intended to supplement, modify or replace actual policy terms and conditions.

Products or policies referenced in this presentation may not be available in all states.
Tom Flynn
NY State Sexual Harassment Training
HF&C Group Benefits
Client Training Tools
Goals for Today

• Share and overview of ThinkHR solutions with you
• Give you information to assess the value of ThinkHR
• Specifically review an option for NY State Sexual Harassment Training
About ThinkHR

- ThinkHR sets the standard for quality and leadership in HR knowledge solutions
- Resolved over 200,000 HR inquiries
- Over 10 years helping companies with HR and training solutions
- Healthy growth and financially sound
- Ongoing innovation based on client feedback and needs

Partnerships with:
1. Helping You Comply
2. Tools to Keep You Out of Trouble
3. Support for Your Team
4. Next Steps
Helping You Comply
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<td><strong>01</strong></td>
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<tr>
<td>Audit your processes.</td>
<td>Call the Live team for firsthand advisor experience.</td>
<td>Evaluate our ThinkHR tools vs others to fill your compliance gaps, including future access to compliance tools, legislative updates and webinars.</td>
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<tr>
<td>Question</td>
<td>Answer</td>
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<tr>
<td>How does the Affordable Care Act affect my business?</td>
<td>How do I handle a termination?</td>
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<tr>
<td>Can I afford to hire another HR resource?</td>
<td>What will it cost me to offer ongoing sexual harassment training?</td>
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<tr>
<td>What do we do about a discrimination claim?</td>
<td>Should I be spending money on an attorney?</td>
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<td>How much time off do I need to give my employees?</td>
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<tr>
<td>How do I increase my employee performance?</td>
<td>Is our compensation in line with industry averages?</td>
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<tr>
<td>Is our compensation in line with industry averages?</td>
<td>How do I mitigate risk and protect my company’s reputation?</td>
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<tr>
<td>Should I be spending money on an attorney?</td>
<td>What training is required in my state?</td>
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The Risks of NOT Caring

- **Employee Turnover**
  Replacing and hiring a new employee costs 1x salary of that employee

- **Compliance Violations**
  HIPAA violations, for example, include a maximum of $250,000 for repeat violations

- **Misclassification Fines**
  Companies have paid out millions of dollars in settlement fines

- **EEOC Violations**
  Federal discrimination damages and back pay can easily cost businesses well beyond $250,000

- **Legal Fees**
  Attorney fees: $300+/hour, Average out-of-court settlement: $75,000

- **Low Employee Morale**
  Can impact customer sales and support affecting customer churn and loss of new revenue

- **Lawsuits**
  6 out of 10 employers have faced an employee lawsuit within the last 5 years
ThinkHR Comply

- HR News
- Federal and State Alerts
- Policies and Forms Library
- ACA Tools and Updates
- Compliance Audits
- White papers and Topical Guides
- Multi-State Handbook Builder
- Job Description Builder
- Performance Review Tool
- Compensation Analytics
- Webinars Library
- Q&A Database
How do you find answers to HR issues and compliance questions:

• How do you find out if you’re keeping compliant?
• Do you have a hiring and onboarding process in place?
• Where do you find the most updated forms needed for workforce management?
Tools
The ThinkHR Platform

THINKHR LIVE

Real-time Advice and Answers from Live HR Experts
- 99% same-day answer rate
- Available 11 hours each day
- SPHR and PHR certified advisors
- Online submission, documentation and follow-up

THINKHR COMPLY

Award-winning Resource Center
- Q&A Database
- Forms and Documents
- Tools and Checklists

THINKHR LEARN

Training Courses for Compliance and Employee Development
- 200+ Online Courses
- Created by Experts

THINKHR CRUNCH

Proactive News and Expert Analysis
- Employment Law and Legislative Updates
- ACA and Compliance Changes
ThinkHR Learn – Most Popular Courses

- Harassment
- Compliance & Legal
- Environment & Climate
- Workplace Safety
- Human Resources
- Computer & IT
- Customer Service
- Professional Development
Workplace Harassment Prevention for Employees, State of New York

Discrimination and harassment at work can have a corrosive effect on an organization's culture and can lead to low employee morale, reduced productivity, and even criminal liability. This course will provide an overview of the types of behaviors that can give rise to discrimination, harassment, and retaliation claims, including those based on sex, race, color, national origin, religion, age, and disability. It will also discuss the benefits of and strategies for promoting a respectful work environment that is free of all forms of harassment, intimidation, and discrimination. If you have questions about harassment either during or after this course, please contact the designated human resources professional at your company who is trained in this area. This course was developed with subject matter support provided by the Potomac Law Group, PLLC. Please note, however, that the course materials and content are for informational purposes only and do not constitute legal advice. Because laws and regulations governing discrimination and harassment may change, the most current legal developments may or may not be reflected in the course. Nothing herein, or in the course materials, shall be construed as professional advice as to any particular situation or constitute a legal opinion with respect to compliance with any law or other directive. Transmission of the information is not intended to create, and receipt does not constitute, an attorney-client relationship. Readers should not act upon this information without seeking independent legal advice. Duration: 40

For a copy of your company's harassment prevention policy and your company-specific practices for managing harassment issues, contact your human resources department or manager.

If you have questions about anything covered in this course, please contact ThinkHR's subject matter experts at NYquestions@thinkhr.com. Your questions will be answered promptly within two business days.

For any support related questions please either click on the "live chat" button in the upper right hand corner or contact support at support@thinkhr.com.

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Due to the older version of Flash on your computer, this course may not play and track properly. Please upgrade your flash player here.

Start Course   Your Certificate
Course Administration and Reporting

As Easy As...
1. Create A Track or Subject

2. Choose a Population

3. Choose a Deadline
Questions – Learn

How is training administered now?:

• Do you need a training solution for your staff on Harassment? OSHA regulations? Recordkeeping? FLSA?
• Are you paying for training now?
Support for Your Team
Audit Tools

HR CHALLENGES CHECKLIST
DO YOU EVER HAVE THESE CHALLENGES?

ThinkHR gives employers access to the best strategies, tools and support to perform the following:

- **Assessing Your HR Risks/Costs/Opportunities**
  - Audits, surveys, HR department improvement plans, ThinkHR Live access

- **Hiring Great Employees**
  - Training modules, webinars, sample offer letters, ThinkHR Live access

- **Keeping and Motivating Great Employees**
  - Training modules, retention program analysis, ThinkHR Live access

- **Managing Employee Performance**
  - Training modules, webinars, personnel forms, building exercises, ThinkHR Live access

- **Discipline, Termination and Layoffs**
  - Training modules, personnel forms, checklists, investigation tools, COBRA forms, ThinkHR Live access

- **Managing Employee Leaves**
  - Training modules, ADA, FMLA, return to work, personnel forms, webinars, ThinkHR Live access

- **Leadership, Management and HR Training**
  - HRCI webinars, training modules, special reports, strategic HR programs, ThinkHR Live access

- **Preventing Destructive Employee Lawsuits**
  - Employee handbook builder, training modules, ThinkHR Live access

ThinkHR Live is a team of HR experts standing by to answer questions and provide advice. Available via phone from 8:00 a.m. to 7:00 p.m. Central each business day or via email anytime, ThinkHR Live team of experienced HR Advisors are there when you need them to point you in the right direction, offer a second opinion or coach you through urgent workforce issues.

WORKERS’ COMPENSATION
AUDIT CHECKLIST

Do you have a dedicated safety officer?
Do you have a dedicated safety team?
Do you have a formalized safety training process?
Do you have a formalized injury prevention program (IP)?
What type of incentives do you use to encourage a safe workplace?
Have you complied with all OSHA and Community Right-To-Know Toxic Substance Requirements related to your industry?
Do you have process for managing safety complaints or whistleblowers?
Do you have a schedule for conducting regular safety inspections?
Do you conduct random safety inspections?
Have you surveyed your employees about safety or injury concerns?
Do you work with an occupational medicine practitioner for pre-hire physicals and claims?
Do you conduct pre-hire physicals?
Do you have a drug testing policy?
Have you done an audit to make sure all workers are properly classified under workers’ comp ratings?
Do you have occupational injury forms readily available and require that employees immediately report all occupational injuries?
Do you submit your annual OSHA logs and make timely reports of claims?
Do you have a formalized process for investigating injuries or accidents?
Do you have a process for managing first aid claims?
Have you identified the incidental costs of your workers’ compensation claims?
Do you have a strategy for lowering your workers’ compensation modifier (MOD)?
Do you have an internal claims manager?
Does your broker provide claims management services?
Do you have a process for addressing fraudulent claims?
Do you do an annual claims management review?
Have you considered the part-time use of a nurse practitioner?
Do you have a formal return to work program?
Is your return to work program coordinated with ADA accommodation and FMLA leave obligations?
Have you done an indoor air pollution study?
Have you done an ergonomics study?
Do you have an emergency/disaster response plan?
Do you have a policy for managing potential violence in the workplace?
ThinkHR Insights

Best practices, thought leadership and more

• Newsletters
• Compliance Alerts
• Legislative Updates
• HRCI Webinars
• Employment Law Alerts
Multi-State Handbook Builder

• Help clients minimize risk
• Differentiate your agency
• Reinforce your value
• Ease compliance burden
• Supported by HR Advisors
• Editable and customizable
Knowledge Tools

Comply search by:

- State or Federal
- Content type
- Dropdowns
- Form, checklist or policy
- Terms or statutes
Next Steps

Would your team benefit from a deeper introduction to ThinkHR:

- HF&C’s Benefits team can review your current compliance practices
- We can demo programs and provide access to our team of pros on your actual questions
- For more information contact Tom Flynn, VP and Director of Group Benefits at tflynn@haylor.com or 315-703-3215