New Sexual Harassment Law update & Your Exposure to Employment Practices Liability
Celebrating 90 Years

Elizabeth Cordello
NYS Sexual Harassment Law Update
Sexual Harassment Law Update
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HYATT Regency Rochester

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#MeToo Makes Its Mark

• In the wake of high-profile sexual harassment allegations and charges, many states have enacted or introduced new laws focused on sexual harassment prevention and response.

• While they vary, the three fundamental trends that have garnered widespread support are:
  - Prohibiting mandatory arbitration of sexual harassment disputes;
  - Banning nondisclosure agreements in sexual harassment settlements; and
  - Requiring employers to adopt detailed sexual harassment prevention policies and trainings.
The Federal Response to the #MeToo Movement
New Federal Legislation

• In 2017, two bipartisan legislation were introduced in the United States House of Representative and the Senate that aim to change how employers respond to sexual harassment in the workplace and how sexual harassment cases are litigated in court.
New Federal Legislation

• **Ending Forced Arbitration of Sexual Harassment Act of 2017**
  – would prohibit pre-dispute employment agreements to arbitrate sexual discrimination claims. The House version of the bill would amend the Federal Arbitration Act (FAA) to exclude all employment claims from the FAA.
New Federal Legislation

• **Ending the Monopoly of Power Over Workplace Harassment through Education and Reporting (EMPOWER Act)**
  
  – would ban nondisclosure and non-disparagement agreements as a condition of employment or continued employment, create an EEOC confidential tip-line to receive reports of sexual harassment, require public companies to disclose the amount of settlements and judgments in connection with workplace harassment (as a material disclosure) in their annual SEC filings, among other things.
New Federal Legislation

- A provision in the **Tax Cuts and Jobs Act of 2017** eliminates deductions for payments made in connection with the settlement of sexual harassment and sexual abuse claims, if the settlement agreement contains a non-disclosure clause.
A Nationwide Response

Sexual Harassment Legislation: 2018
Which States Have Introduced Legislation Addressing Sexual Harassment This Year?

Source: MultiState Associates. Updated as of 2/7/2018
# State Laws

<table>
<thead>
<tr>
<th>Sexual Harassment Laws</th>
<th>States</th>
</tr>
</thead>
<tbody>
<tr>
<td>States that have banned or restricted mandatory arbitration of sexual harassment claims</td>
<td>Maryland, New York, Vermont, and Washington</td>
</tr>
<tr>
<td>States that have banned or restricted NDAs in sexual harassment settlements</td>
<td>Arizona, Louisiana, New York, Tennessee, Vermont, and Washington</td>
</tr>
<tr>
<td>States that now require employers to have specific sexual harassment prevention policies</td>
<td>California, Maine, Massachusetts, New York, Rhode Island, and Vermont</td>
</tr>
<tr>
<td>Require sexual harassment prevention training at hire or on an annual or bi-annual basis</td>
<td>California, Connecticut, Maine, and New York</td>
</tr>
</tbody>
</table>
New York State’s Response to the #MeToo Movement
New York Legislation

• As of April 12, 2018, employers in New York now have new legal obligations to prevent sexual harassment of employees and certain non-employees. The legislation was signed into law as a part of the 2019 New York State Budget.
NY Executive Law Amendment

• Amends the New York Executive Law by expanding employer liability to include sexual harassment of non-employees and to include sexual harassment within the definition of “unlawful discriminatory practice.”
NY Labor Law Amendment

• Amends the New York Labor Law to direct the Department of Labor, in consultation with the Division of Human Rights, to publish model sexual harassment prevention guidance.
NY Labor Law Amendment

• While it has always been a best practice, employers are now **required** to implement written sexual harassment prevention policies, provide those policies to their employees, and ensure all employees are trained on sexual harassment prevention on an annual basis.
NY CPLR and General Obligation Law Amendment

• Amends the New York Civil Practice Law to prohibit contractual provisions that mandate arbitration of sexual harassment claims.

• Amends the New York General Obligation Law and the New York Civil Practice Law to regulate confidentiality agreements based on sexual harassment settlements.
NY Public Officers Law Amendment

• Amends the New York Public Officers Law to require employees found personally liable for intentional wrongdoing involving sexual harassment to reimburse any public entity that makes a payment to a plaintiff.
State Contract Requirement

• Require state contractors to certify in writing in their bids that they have a sexual harassment prevention policy and provide annual training that meets or exceeds the requirements of the model policy and training program.
• This provision goes into effect January 1, 2019.
Employment Contracts and Arbitration Agreements
Mandatory Arbitration Agreements for Sexual Harassment Claims Prohibited

- The law amends the New York Civil Practice Law and Rules ("CPLR") to render void agreements requiring the submission of sexual harassment claims to mandatory binding arbitration.
- Does not apply to arbitration requirements that are included as part of a collective bargaining agreement.
- Does not apply to any other provision contained in the agreement.
Prohibition of Mandatory Pre-Dispute Arbitration Clauses

• This prohibition does not apply to any arbitration agreements governed by the Federal Arbitration Act, which will still likely be enforceable regardless of the sexual harassment based nature of disputes.

• The crucial question in terms of enforcement will be if the employment contract affects interstate commerce, thus placing it under the authority of the FAA.

• Applies to employers with four or more employees.

• This provision is effective July 11, 2018 and is not retroactive.
Confidential Settlement Agreements for Sexual Harassment Claims Prohibited

• The law further amends the CPLR to prohibit courts from approving confidential settlement agreements for sexual harassment claims, unless:
  • (i) confidentiality is the complainant’s preference;
  • (ii) the complainant has been given 21 days to consider the confidentiality provision; and
  • (iii) the complainant is given 7 days in which to revoke his or her acceptance of the confidentiality provision.
• This provision is effective July 11, 2018 and is not retroactive.
Sexual Harassment Policy and Training Requirements
Required Elements of Sexual Harassment Policy

• The amendment requires the New York Department of Labor (“NYSDOL”) and the New York State Division of Human Rights (“NYSDHR”) to jointly develop a model sexual harassment prevention policy, and requires all New York employers to either adopt the model policy or develop their own policy compliant with the model’s standards.

• Employers are required to prepare and distribute a compliant written sexual harassment prevention policy by **October 9, 2018**.


• DOL Complaint Form: [https://www.ny.gov/sites/ny.gov/files/atoms/files/CombatHarassmentComplaint%20Form.pdf](https://www.ny.gov/sites/ny.gov/files/atoms/files/CombatHarassmentComplaint%20Form.pdf)
Required Elements of Sexual Harassment Prevention Policy

At a minimum a sexual harassment prevention policy is required to contain the following elements:

– A statement prohibiting sexual harassment consistent with guidance issued by DOL in consultation with DHR;
– Examples of prohibited conduct that would constitute sexual harassment;
– Information concerning the federal and state statutory provisions concerning sexual harassment and remedies available to victims, along with a statement that there may be additional applicable laws;
– Includes a complaint form;
– The procedure for timely and confidential investigation of complaints that ensures due process;
– A statement informing employees of their rights of redress and available forums for adjudicating sexual harassment complaints administratively and judicially;
– A statement that sexual harassment is a form of employee misconduct, and that sanctions will be enforced against individuals engaging in sexual harassment and managers and supervisory personnel who knowingly allow such behavior to continue; and
– A statement that retaliation against individuals reporting sexual harassment or who testify or assist in any proceeding is unlawful.
Required Sexual Harassment Prevention Training

• The amendment requires NYSDOL and NYSDHR to develop a model sexual harassment prevention training program, and requires employers in the state to either present the state-approved model or their own training program compliant with state standards on an annual basis.

• New York employers are required to provide sexual harassment prevention training by October 9, 2019 and every subsequent year. New employees must receive training as soon as possible.


• Training should be provided in the language spoken by their employees.

• Sexual Harassment Prevention Case Studies
**Required Elements of Sexual Harassment Prevention Training**

The training program must contain the following elements:

– Must be interactive;
– An explanation of sexual harassment consistent with guidance issued by DOL in consultation with DHR;
– Examples of conduct that would constitute unlawful sexual harassment;
– Information concerning the federal and state statutory provisions concerning sexual harassment and remedies available to victims;
– Information concerning employees’ right of redress and all available forums for adjudicating complaints; and
– Information addressing conduct by supervisors and any additional responsibilities for such supervisors.
Enhanced Protections For Non-Employees

• Effective immediately, New York employers may be held liable by non-employees who provide services pursuant to a contract in the workplace (such as contactors, “freelancers,” vendors or consultants) for sexual harassment.

• Applies if the employer, its agents, or supervisors knew or should have known that the non-employee was subject to sexual harassment in the workplace, and the employer failed to take immediate corrective action.

• The amendment states that “in reviewing such cases involving non-employees, the extent of the employer’s control and any other legal responsibility which the employer may have with respect to the conduct of the harasser shall be considered.”
What should you be doing next?

• Review and evaluate current sexual harassment prevention policies and training programs for compliance with the new minimum standards
• Revise sexual harassment prevention policies to include specific references to non-employees providing services to the employer, including independent contractors.
• Prepare and begin providing sexual harassment prevention training for employees and management on an annual basis.
• Consult your legal counsel regarding changes to arbitration agreements in connection with sexual harassment claims and the interplay with the Federal Arbitration Act.
• Revise settlement agreements, including nondisclosure provisions pertaining to sexual harassment claims, to provide for the applicable review and revocation period.
• When available, review the New York State Department of Labor model policies and training programs on sexual harassment prevention.
QUESTIONS??
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
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.

6/10 businesses mistakenly think they’re covered by EPLI.
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
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>Men</th>
</tr>
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<tbody>
<tr>
<td>Verbal sexual harassment</td>
<td>77%</td>
<td>34%</td>
</tr>
<tr>
<td>Unwelcome sexual touching</td>
<td>51%</td>
<td>17%</td>
</tr>
<tr>
<td>Online sexual harassment</td>
<td>41%</td>
<td>22%</td>
</tr>
<tr>
<td>Being physically followed</td>
<td>34%</td>
<td>12%</td>
</tr>
<tr>
<td>Genital flashing</td>
<td>30%</td>
<td>12%</td>
</tr>
<tr>
<td>Sexual assault</td>
<td>27%</td>
<td>7%</td>
</tr>
</tbody>
</table>
## Coverage Features: Insuring Agreement and Other Key Provisions

<table>
<thead>
<tr>
<th>Claims Made Coverage</th>
</tr>
</thead>
<tbody>
<tr>
<td>• When is the claim made?</td>
</tr>
<tr>
<td>• When reported?</td>
</tr>
<tr>
<td>• When did the act occur?</td>
</tr>
<tr>
<td>• When did the insured know?</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Defense Provisions</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Duty to defend</td>
</tr>
<tr>
<td>• Indemnification</td>
</tr>
</tbody>
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<table>
<thead>
<tr>
<th>Limits</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Per Claim and Aggregate</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Retention</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Applies to each claim.</td>
</tr>
<tr>
<td>• Commonly no aggregate retention or cap</td>
</tr>
</tbody>
</table>

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<thead>
<tr>
<th>Claim Reporting Extension</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Extend policy provisions</td>
</tr>
<tr>
<td>• Claims made after policy ended</td>
</tr>
<tr>
<td>• Wrongful Acts occurred before policy ended</td>
</tr>
</tbody>
</table>

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

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?
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.
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.
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:
Helping You Comply
Tools to Keep You Out of Trouble
Support for Your Team
Next Steps
Helping You Comply
Steps to Success

01 Audit your processes.

02 Call the Live team for firsthand advisor experience.

03 Evaluate our ThinkHR tools vs others to fill your compliance gaps, including future access to compliance tools, legislative updates and webinars.
Why Is Compliance Support Important?

- How does the Affordable Care Act affect my business?
- How do I handle a termination?
- How much time off do I need to give my employees?
- How do I increase my employee performance?
- Can I afford to hire another HR resource?
- What will it cost me to offer ongoing sexual harassment training?
- How much time off do I need to give my employees?
- Is our compensation in line with industry averages?
- What do we do about a discrimination claim?
- Should I be spending money on an attorney?
- How do I mitigate risk and protect my company’s reputation?
- What training is required in my state?
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.

Your questions will be answered promptly within two business days. support@thinkhr.com.

Due to the older version of Flash on your computer, this course may not play and track properly. Please upgrade your flash player here.
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 plan, 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’s 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 (IPP)?
- 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?
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• For more information contact Tom Flynn, VP and Director of Group Benefits at tflynn@haylor.com or 315-703-3215