

### **It's the Law: New York State Expands Workplace Protections Against Sexual Harassment and Other Forms of Discrimination**

As detailed in our [June 2019 alert](#), the New York State legislature passed sweeping legislation designed to increase protections against workplace sexual harassment and other forms of discrimination under the New York State Human Rights Law (NYSHRL). On August 12, 2019, Governor Andrew Cuomo signed [this legislation](#) into law. The new provisions go into effect in phases, with the majority taking effect on **October 11, 2019**.

These new and amended provisions bring about several key reforms that impact all New York State employers. Specifically, the law's requirements concerning notifying employees of sexual harassment prevention policies, as well as its requirements and limitations regarding resolution and settlement of discrimination claims, could impact employers' employment and settlement agreements, written policies, and training programs. The "Takeaways for Employers" included at the close of our previous [alert](#) on this topic outline steps that employers should consider to ensure compliance with all of the requirements under the NYSHRL.

Employers also should review the law to understand how it is likely to affect resolution of such claims going forward. As previously discussed, the law eliminates the long-held "severe or pervasive" standard to obtain legal relief for a workplace harassment claim. Under the new law, an employer may be liable if the harassing conduct constitutes more than "petty slights or trivial inconveniences." Further, the law eliminates the *Faragher/Ellerth* affirmative defense, which allows employers to avoid liability for harassment because an employee failed to file a formal complaint or follow a particular reporting procedure. These changes are expected to make it far easier for victims of workplace sexual harassment and other discrimination to obtain relief.

#### **Effective Dates**

The majority of these provisions take effect on October 11, 2019, with the following notable exceptions:

##### Effective Immediately

- At the time of hiring and at an employer's annual sexual harassment prevention training, an employer must provide its employees with a written notice containing the employer's sexual harassment prevention policy and "information presented at such employer's sexual harassment prevention training program." The employer must provide this notice in English and in the employee's primary language.

##### January 1, 2020

- Any provision in a contract or other agreement after this date that prevents disclosure of information related to any future claim of discrimination is unenforceable unless it notifies the employee or potential employee that s/he is not prohibited from speaking with law enforcement, the EEOC, the New York State Division of Human Rights, a local commission on human rights, or an attorney retained by the employee or potential employee.

February 8, 2020

- “Employer” under the law includes all New York State employers, including those with fewer than four employees.

August 12, 2020

- The statute of limitations to file a sexual harassment complaint with the New York State Division of Human Rights is extended from one to three years.

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**Lisa E. Cleary**

**212.336.2159**

**lecleary@pbwt.com**

**Catherine A. Williams**

**212.336.2207**

**cawilliams@pbwt.com**

**Sara A. Arrow**

**212.336.2031**

**sarrow@pbwt.com**

**Elizabeth C. Quirk**

**212.336.2547**

**equirk@pbwt.com**

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