



Reduce harmful work stressors.  
Improve job quality and health.

# Healthy Work **Strategies**

## Laws to prevent workplace sexual harassment

The #MeToo movement has raised awareness of sexual harassment at work, and as many as 25% to 80% of women experience workplace sexual harassment in their lifetimes. The U.S. Equal Employment Opportunities Commission (EEOC) received 12,428 claims of workplace-based sexual harassment and 6,696 claims of sexual harassment in 2007, with 20% of claims submitted by men. EEOC data from 2017 indicates that only 1/10 people experiencing sexual harassment at work report it, and that 71% of claims result in retaliation.<sup>7</sup>

According to a review of the research by the Institute for Women's Policy Research (IWPR), victims of workplace sexual harassment and assault experience physical and mental health impacts such as depression and post-traumatic stress disorder (PTSD). In addition, many women report career interruptions, lower earnings, restricted access to learning and advancement, lost financial security, and reduced work performance.<sup>7</sup>

Women are more at risk than men for sexual harassment and assault, and women most at risk are those who work alone or in isolation, tipped workers, immigrants without legal status or with temporary work visas, and women who work in male dominated fields. When even one employee experiences chronic sexual harassment, her colleagues can suffer as a result; there may be increased employee turnover and absenteeism, lower productivity, and lower performance among the victim and her team. Fear of complaining, having to meet a high standard of proof, fear of retaliation, and fears about economic security can create ongoing anxiety. Additionally, sexual harassment victims report being forced to change jobs, become unemployed, and give up their careers.<sup>7</sup>

## 2018 New York City Laws

In May 2018, 11 new laws in New York City (NYC) were enacted to provide protection against workplace sexual harassment.<sup>1</sup> Two of these laws required anti-sexual harassment trainings for all employees of city agencies as well as any employer with 15 or more employees. Another two laws ensure providing anti-sexual harassment information to New Yorkers—by requiring the NYC Commission on Human Rights to post and update

resources about sexual harassment on their website, as well as requiring all employers to post an anti-sexual harassment rights and responsibilities poster in the workplace.

Four of the newly signed laws relate to the measurement and reporting of sexual harassment policies and incidents. The laws establish a system to evaluate workplace factors that can lead to sexual harassment, measure the employee's general knowledge of the city's equal employment opportunity policy, including sexual harassment prevention policies, require annual reporting of incidents of sexual harassment, and require contractors and subcontractors applying for city contracts to disclose their employment practices and policies for sexual harassment prevention.

The last three laws relate to expanding sexual harassment protections under the NYC Human Rights Law. They expand provisions on gender-based harassment to all employers, no matter how many employees in the company. In addition, sexual harassment is officially listed as a form of discrimination. Finally, the statute of limitations on sexual harassment claims has been increased from one year to three years from the date of harassment.

## State Laws

Several other states across the US have similar anti-sexual harassment laws. In most US states sexual harassment is considered part of **employment discrimination** and is prohibited by law (AK, AZ, CA, CO, CT, DE, FL, GA, HI, ID, IL, IN, KS, KY, ME, MD, MA, MI, MN, MO, MT, NE, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SD, TN, TX, UT, VT, VA, WV, WI, WY).

Federal law (Title VII of the Civil Rights Act of 1964) provides protection from employment discrimination for agencies with 15 or more employees<sup>2</sup>, however, many states have set a smaller **minimum number of employees**. The sexual harassment laws apply to employers with one or more employees (AK, CO, DC, HI, IL, ME, MI, MN, MT, NJ, NY, ND, OK, OR, SD, VT, WI), two or more employees (WY), four or more employees (IA, OH, PA, RI), 5 or more employees (CA, ID, KS), six or more employees (IN, MA, MO, NH, VA), eight or more employees (KY, TN, WA), or 12 employees (WV). Sexual harassment laws apply mostly to public and private employees, however, several states expand these protections specifically to unpaid **interns** (CA, CT, DC, IL, MD, NY, OR, TX, VT, WA) and **independent contractors** (CA, VT).

Many states also include a requirement for sexual harassment **training** for employees (CT, CA, IL, ME, IA, NY, NC, OK, PA, RI, TN, TX, UT, WA, NM has provisions for primary and secondary school personnel only), while a few others (MD, MA, NJ, OH, WI) advise such training but don't have any legal requirement. A few other states (ME, NY, RI in agencies with 50 or more employees, and VT) require a prominent display of anti-sexual harassment **posters** in the workplace.

Only two states (NY and VT) so far have a system in place for **reporting incidents** of sexual harassment to the state.

Several states have passed provisions **prohibiting nondisclosure settlements as a condition of employment** (VT, WA), and VT has also passed a provision that states sexual harassment settlements cannot prohibit the victim from working in the organization again.

In a couple of states, supervisors can be held personally responsible in court for sexual harassment (CA, DC, MA, MI, MN, MT, NM, VT, WA). And some states have removed any caps on punitive damages for sexual harassment (CA, HI, MA, NJ, OR, VT, WV).

NY holds employers responsible for providing a workplace that is safe from sexual harassment and assault. It also ends non-disclosure agreements, and eliminates the standard that forced victims to prove that harassment was "severe or pervasive" to have a chance of winning the case.

## **2018 Chicago City Council “Hands Off Pants On” Law**

The 2018 Chicago City Council “Hands Off Pants On” law was designed to protect a specific occupational group, hotel housekeepers. Unite Here Local 1, representing hotel workers, had proposed the law after releasing survey results that 49% of Chicago housekeepers “have had guest(s) expose themselves, flash them or answer the door naked,” and that 58% had experienced at least one incident of sexual harassment. The law requires panic buttons for hotel housekeepers to protect them from sexual misconduct by hotel guests. Despite resistance from some hotels, ultimately Chicago’s 26 unionized downtown hotels implemented the law and use of the buttons. Non-union hotels have been more resistant.<sup>8</sup>

## **How were these laws achieved?**

In the Spring of 2019, comprehensive workplace sexual harassment and discrimination legislation was passed in NY state, replacing laws that had not adequately protected workers. The State Senator who pushed for the new laws gave credit to the Sexual Harassment Working Group, which includes former legislative staffers who had experienced and witnessed sexual harassment in the capitol of NY (Albany) and who had pushed back.<sup>4,5</sup> The Chicago law resulted from lobbying by the hotel workers’ union.<sup>8</sup>

A variety of strategies have also been pursued at the local level. For example, the National Council for Occupational Safety and Health (National COSH) new sexual harassment action network brings together labor and community activists to champion campaigns against workplace harassment and abuse; create a clearinghouse of policy, contract language and educational resources; and promote participatory research and leadership development of low-wage workers: <http://www.coshnetwork.org/>.<sup>6</sup>

## Impact on employee stress or employee health and safety

The laws described above hold the potential for reducing the sexual harassment faced by employees, and improving their physical and mental health. Future research is needed to assess the impact of these laws on employee stress and health.

## Find out more

Find out more about the law in your state:

- <https://www.trainingabc.com/sexual-harassment-law-in-all-50-states/>
- <http://www.ncsl.org/research/about-state-legislatures/2018-legislative-sexual-harassment-legislation.aspx>

## References:

1. NYC Press Release, May 9, 2018. Mayor de Blasio Signs Legislation Strengthening Protections Against Sexual Harassment. <https://www1.nyc.gov/office-of-the-mayor/news/>.
2. Federal Title VII of the Civil Rights Act of 1964 harassment provisions: <https://www.eeoc.gov/>.
3. Sexual Harassment Laws across the US: <https://www.trainingabc.com/>.
4. Leonard N. The Sexual Harassment Bills Passed in New York Are the Structural #MeToo Victories We Need, June 12, 2019. <https://theintercept.com/>.
5. Cuomo signs off on new workplace harassment protections. August 12, 2019. <https://www.timesunion.com/>.
6. National COSH's Sexual Harassment Action Network. Accessed September 11, 2019. <http://www.coshnetwork.org/> [1]; <http://www.coshnetwork.org/> [2]; <http://nationalcosh.org/>.
7. Shaw E, Hegewisch A, Hess C. Sexual Harassment and Assault at Work: Understanding the Costs. Washington, DC: Institute for Women's Policy Research, 2018. <https://iwpr.org/>
8. Colyar B. Saying #MeToo in the Push of a Button, Ms. Magazine, January 10, 2019. <https://msmagazine.com/>. Retrieved September 28, 2019.