Engage PEO Client Alert

New York State and New York City Summer Updates

MODEL SEXUAL HARASSMENT PREVENTION POLICY AND TRAINING

What's New: New York State recently updated its Model Sexual Harassment Prevention Policy and Model Sexual Harassment Prevention Training for all New York employers.

Why It Matters: Employers in New York State and City must maintain and provide a sexual harassment prevention policy to all employees and issue a notice regarding sexual harassment prevention at the start of employment and during the annual sexual harassment training that every New York employee must take, which we addressed here. All policies and notices must be provided in English and the employee's primary language.

The New York State Department of Labor's new model policy and training address scenarios related to harassment occurring with remote workers, bystander intervention, and protections related to gender identity, expression, and sexual orientation. The legal requirements related to the harassment policy and training *have not changed*, but the updated model policy and state offered training illustrate the government's continued attention to harassment and discrimination protections.

Engage's New York State Sexual Harassment Policy *is compliant with current state requirements.*

What Employers Should Do: Employers with New York employees should contact their Engage Human Resources Consultant to discuss any necessary changes to the organization's Anti-Harassment policy and obtain a link to Engage's New York Anti-Harassment Training, which satisfies the New York State and New York City anti-harassment training requirements. However, **if employers are using Engage's existing template anti-harassment policy and training, then no action is needed.**

Additionally, it is recommended that employers maintain certificates of completion of the annual harassment training that are signed by each employee.

ACCOMMODATIONS FOR NURSING MOTHERS

What's New: Effective June 7, 2023, New York State employers must provide accommodations for nursing mothers.

Why It Matters: As of June 7, 2023, all New York State employers must provide unpaid break time whenever a nursing mother "has a reasonable need to express breast milk" and a room or other location for nursing upon request. The location must be private (have a door with a functional lock or sign warning that it is not open to others) and close to the employee's work area but cannot be a bathroom or toilet stall. Additionally, the location must include a chair, small table or flat surface, electrical outlet, good natural or artificial light (windows must include coverings), and access to clean water. If employers supply a refrigerator, then nursing mothers must be permitted to use it to store milk.

Employees may take breaks to express milk up to three years after giving birth, and each break must last a duration of at least 20 minutes. Employees may elect for a shorter break and must be permitted longer breaks, if needed. Nursing employees must be permitted a break to pump at least once every three hours, however, employers must provide more frequent breaks, if necessary.

Employees may not be required to make up the time spent expressing milk but must be permitted to work before or after their normal shift to make up the unpaid break time, as long as doing so is within the employer's normal work hours.

Generally, employees should submit a request to pump breast milk in writing before the need arises – for example, prior to returning from maternity leave. The request may include, but is not limited to, the return date, the number of breaks the employee anticipates needing during each workday, and preferred times to express milk. -Employers must respond to the request within 5 days.

What Employers Should Do: Employers must inform all employees of the right to an unpaid nursing break and nursing location upon hire and on a yearly basis and remind employees returning to work after the birth of a child of the same. Clients can download our updated policy here.

PROHIBITIONS AGAINST DISCRIMINATION BASED ON HEIGHT AND WEIGHT

What's New: Effective November 22, 2023, New York City employers may not discriminate against employees and applicants according to height and weight, with limited exceptions.

Why It Matters: Height and weight are now protected characteristics under the New York City Human Rights Law.

What Employers Should Do: New York City employers should review their equal employment opportunity policies to ensure compliance with the new law and contact your Engage Human Resources Consultant for any questions regarding the new requirements and circumstances that may constitute an exception to the new rule.

Please reach out to your Engage Human Resources Consultant if you have any questions concerning this alert or other H.R.-related matters.