



Don't Assume That One-Size-Fits-All Employment Policies Work Everywhere

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Did you know that New York has an expansive new sexual harassment law that went into effect in October 2018?

I am working with a client that has a handful of offices around the country, including one in New York City, and I was reviewing their employee handbook last week. As I read their sexual harassment policy, my first impression was that it was far too stringent from an employer's perspective.

The policy provided a detailed investigation procedure the company would follow, thus taking away any flexibility regarding when and how to investigate. It provided thorough information about how an employee could file a charge of discrimination or a lawsuit, seemingly begging employees to pursue claims. It went well beyond the average policy in providing detailed examples of conduct that was not allowed.

I was tempted to strike the whole thing out and replace it with a more generalized, employer-friendly policy, but before taking any drastic measures I checked New York law to make sure there weren't any quirks.

Sure enough, I discovered New York's new sexual harassment law, which requires employers to modify their policies to, among other things:

- Include a complaint form

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- Include a procedure for the investigation of complaints
- Inform employees of their rights of redress and all available forums to pursue complaints
- Include information regarding federal and state statutes prohibiting harassment and the remedies available to victims
- Provide comprehensive interactive training regarding sexual harassment

It turns out the client's policy had been drafted to comply with the newly enacted law, and removing it would have exposed the company to liability for an insufficient policy.

I say this in part to make sure you're aware of the new law if you have employees in New York, but my bigger point is that when a company has employees scattered across multiple states, it isn't sufficient to create a single set of policies for all of them without considering state and local laws.

Many states and municipalities are increasingly taking it upon themselves to pass more detailed and usually employee-friendly laws, including (but not limited to) paid sick leave, expansive family leave, and higher minimum wages. If you have nationwide policies that don't take these state statutes and local ordinances into account, you may find yourself violating several laws. Worse, those violations would be likely in the jurisdictions that are most active in enforcing employee-friendly laws.

If you have employees in multiple cities and states, don't assume that your employment policies for those employees should be identical from location to location. You may need to make significant adjustments to comply with applicable laws.