

G Is For Golden Standard

August 31, 2018 | [Letter Of The Law, Labor And Employment](#)

In the labor and employment world, a question we often must remember to ask our clients is: in which state does the employee work? States' labor laws vary drastically in every which way, from paid leave requirements to minimum wage amounts—and now anti-harassment guidance. In response to the #MeToo movement, New York passed legislation this year requiring all New York employers to adopt or create an anti-sexual harassment policy that meets the requirements of the state's new model policy. The guidance crafted by the state includes a sample anti-harassment policy which employers can simply adopt in full, as well as a list of eight minimum standards that all policies must meet. That model policy was released just last week, leaving employers with a matter of weeks to update, revise, and/or implement new anti-harassment procedures. While the model policy adds some more forceful language and detail, it really does not change much about anti-harassment policies in place around the country. New York's minimum standards include things that we already look for in a good policy: examples of prohibited conduct, a provision barring retaliation against people who complain, and a description of steps for investigation. The more pressing task for New York employers is complying with the added requirement that all employers provide sexual harassment prevention training. Again, not something unheard of, and the state has created a list of training requirements ("be interactive," "include examples of conduct that would constitute unlawful sexual harassment"). However, New York employers, and employers all over the country, are still faced with crafting a training program that suits *their* workforce. The overarching guidance issued by New York is a necessary starting point, but the real work will come when employers begin to identify the specific areas of concern they see in their own workplaces. When those efforts are made, and smart solutions are identified, anti-harassment training might begin to see different outcomes.

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