

LI BUSINESS

Employment-law changes for 2020

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This year brought sweeping changes for businesses statewide with a host of new employment obligations ranging from sexual harassment prevention training to stricter data breach notification requirements.



RUSKIN MOSCOW FALTISCHEK

New for 2020, says attorney Kimberly Malerba: a notice of employee rights and remedies for discrimination based on reproductive choices.

There are deadlines coming up that local employers need to keep on their radar as the New Year approaches.

“I think employers’ heads are spinning a little bit,” says Melissa Camire, a partner in the Manhattan office of Fisher Phillips, LLP, which specializes in labor and employment issues. “There is lots of legislation coming

at them all the time from both the state and localities.”

“I don’t think 2019 was an anomaly,” she says, noting that increased regulation has been the trend for the past few years.

Part of the reason for the spate of new local and state laws may be the perception of a federal government that “isn’t making employee rights a priority,” says Camire. So employee-friendly states such as New York and California are taking matters into their own hands, she says.

One of the biggest overhauls of 2019 involved sweeping changes to New York State Human Rights Law [NYSHRL] expanding harassment and discrimination protections, says Camire.

Among employers’ new obligations was to give workers sexual harassment

prevention training by this past October, says Kimberly Malerba, chair of employment law at Ruskin Moscou Faltischek in Uniondale.

That obligation continues and employers are required to do that training annually, she says.

Also as a result of changes to NYSHRL, effective Feb. 8, the Human Rights Law will apply to employers of all sizes, she says. Previously, except with respect to sexual harassment, the law covered only employers with four or more employees, she says.

Human Rights Law covers protected characteristics including sex, race, color, creed, religion, age, sexual orientation and disability, says Emily Iannucci, a labor and employment attorney in the Garden City office of Bond, Schoeneck & King PLLC.

This means employees will be able to file a charge of discrimination with the state’s Division of Human Rights (NYS-DHR) even with the smallest employer, she says.

In addition, as of Jan. 1 under changes to NYSHRL, any agreement with an employee that prevents the disclosure of factual information related to a future claim of discrimination is void and unenforceable unless the employee is specifically informed that despite the non-disclosure agreement, the employee is not prohibited from speaking with law enforcement, the Equal Employment Opportunity Commission, the NYSDHR, a local human rights agency or an attorney retained by the employee, says Camire.

Furthermore, effective Aug. 12, 2020, the statute of limitations for filing a sexual harassment claim with the NYSDHR is extended from one to three years, says Iannucci.

Outside of Human Rights Law changes, some other notable dates include:

▪ **As of Dec. 31, 2019, minimum wage** on Long Island increases from \$12 an hour to

\$13 an hour, and more employees will be eligible to receive overtime pay because the salary threshold to exempt certain employees from overtime increases. On Long Island, employees must make at least \$50,700 (\$975 weekly) to be exempted from overtime pay — up from \$46,800 (\$900 weekly), says Christina Zaberto, human resources manager with Associated HCM in Plainview. To be exempted, the employee’s job duties also must primarily involve executive, administrative or professional duties as defined by the regulations, she says.

▪ **Effective Jan. 1, employees taking Paid Family Leave** will receive 60% of their average weekly wage up to a cap of 60% of the current statewide average weekly wage of \$1,401.17, so the maximum weekly benefit for 2020 will be \$840.70, says Iannucci. The benefits are funded by employee contributions collected via payroll deductions. In 2020, the contribution is 0.270% of employees’ gross wages each pay period, up to a max of \$196.72 for the year, she says.

▪ **On Jan. 6, a statewide ban on salary history inquiries** takes effect, says Zaberto. Employers and anyone connecting applicants with employers are forbidden from asking job applicants or current employees about their wage or salary histories as a condition of consideration for employment or promotion, she says.

▪ **By Jan. 7, employee handbooks** must include a notice of employees’ rights and remedies under the a 2019 law that prohibits employment discrimination based on an employee or dependent’s reproductive health decision-making (ie., abortion, etc.), says Malerba.

▪ **Effective March 21, as part of New York’s SHIELD Act**, employers must adopt more stringent data security safeguards, says Zaberto. More expansive data breach notification requirements already went into effect in 2019.