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## ANTI-HARASSMENT

Experts offer compelling reasons to comply with the new prevention-training law



Anti-sexual harassment training can strengthen an organization, experts said at a recent LIBN roundtable discussion.



By ADINA GENN

Sexual harassment prevention training became mandatory this year for employers across New York State.

And it's in their best interest that they complied, experts warn.

"If you don't do it and you have an issue, it will put the entity in a very bad light," said Dominique Camacho Moran, a partner at the Uniondale law firm Farrell Fritz, with a specialty in labor and employment.

"You don't want to be the one who gets sued and says, 'Yeah I totally ignored that part of the law,'" she pointed out.

In a MeToo era, New York State law now requires employers to have already trained workers about its sexual harassment prevention policies. A part of annual training, this year it was to have been conducted by October. It didn't matter if the organizations were large or small, public or private – all employers had to partake. And while training can be costly and time-consuming, experts see it ultimately an advantage for employers.

Those were the takeaways from a wide-ranging discussion with industry experts and government officials during a participant-sponsored roundtable event held at the offices of Long Island Business News.

The panel discussion was moderated by LIBN Editor and Associate Publisher Joe Dowd. In addition to Moran, it featured Tim Domanick, an associate at Jackson Lewis, which has offices in Melville; Katherine Heavyside, president of Epoch 5, a public relations firm based in Huntington; and Lindsay Ekizian, the communications director from the Office of New York State Sen. Monica Martinez.

"Having a planned, measured response is the most important thing," Domanick said. "On Long Island, most employers aren't going to be able to withstand the hit from the legal fees to even defend a lawsuit. Having a plan is worth its weight in gold."

"It's a new requirement, but it's an opportunity for organizations to put in practice the values that most will tell you they have," Moran said.

Still, should an employee file a complaint, it's essential to already have that strategy at the ready.

"Every organization will have something happen at some point," Moran said. "So it's important they have something planned in advance from lawyers, policy, process and public relations."

And while messaging will become key, when there's a legal question, it's best to consult an attorney.

"We really take the lead from the attorneys because

we don't want the communications to hurt any legal case that could be coming," Heavyside said. "And we work in partnership."

"It's important that the message doesn't drive the outcome," Moran said. "Sexual harassment is an issue everyone wants to handle the right way."

Organizations, Moran said, must act "fast and deliberate. Two years after #MeToo, what we have to learn and have to remember is there should not be a knee jerk. Not every accusation is 100 percent true. That doesn't mean that something didn't happen. But there should be a process. That's why it's important to have a plan in advance. Knee-jerk reactions lend themselves to not a full understanding of the facts."

And it's key for to have that measured approach.

Heavyside pointed to a Harvard study that found that "when sexual harassment issues become known through the media, it does more damage to a corporation's brand than other issues such as a financial misconduct."

On Long Island, state officials take sexual harassment charges seriously. When they are raised to the office of State Sen. Monica Martinez, for example, the staff helps constituents find support. Martinez and her team also looks at the issue through a "larger macro lens," seeking

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### Better late than never

Whether every employer in New York State complied with the training mandate this year is anyone's guess.

"Most employers want to comply," Moran pointed out. "But there's not a mechanism for tracking that."

Yet employers can still get on board, even if the October 2019 deadline sailed by without providing prevention training.

"If you missed the deadline, you can still do the training," Domanick said.

ways to address them, a spokeswoman told LIBN. While a Suffolk County legislator, she sponsored two pieces of legislation that were passed in 2018 to prevent sexual harassment and misconduct in the workplace for county employees.

### Options for training

Employers gearing up for sexual harassment prevention training in 2020 – the training must be completed annually – have a host of options.

New York State, for instance, offers webinars, training videos, objectives and more. All of this is available online at [ny.gov/combatting-sexual-harassment-workplace/employers](http://ny.gov/combatting-sexual-harassment-workplace/employers).

Employers that need to outsource training can also look to human-resources or legal experts that specialize in employment law. Other organizations, including chambers of commerce, may offer training events in which employers pay a fee based on the number of employees they send.

"Maybe if you do have a problem, you'll be asked why you missed the deadline," he added. "But you're still going to get value – even if you do it late – as long as you hit the deadline now."

And, yes, "some plaintiffs attorneys will spin it as you're only doing it as a reaction now that you have this problem," he said. "But doing these types of things late is better than not doing them at all."

### Choices

When it comes to prevention training, employers have a host of options.

"The mandate is somewhat limited – it doesn't tell you how to do it, how long the training has to be... there's no minimum," Moran said.

But, she said, "There's a requirement we include in that training: What is sexual harassment, what's not allowed in the workplace, retaliation issues. The format in which it's delivered is not mandated by the law."

Training can be in person, or online, and New York State provides online resources for that purpose. But there must be interaction so that there is room for discussion, and opportunity for questions.

"A lot of employers are going toward computer-based training," Domanick said. "But in our experience, in-person training works best," as this format fosters conversation.

"Sometimes with those web-based interactive trainings, someone has a question and doesn't have the option to click" on a prompt that would provide answers, he added.

But, "when you can break down a training and it becomes a conversation between you and the employees – that's when the message lands the best," Domanick said.

Still, that training can seem costly, which is why some organizations, including chambers of commerce, hosted sessions where employers paid a fee for each employee.

In these sessions, Heavyside said, "smaller companies come together in a room where you can have an attorney address the issues including sexual harassment and other discrimination issues."

"It's a good way to kick it off," she said.

And for employers, that's worth considering, experts say, especially now that training is required on annual basis.

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