



Addressing Workplace Sexual Harassment:

Public Policy Solutions for Utah

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Introduction

Sexual harassment continues to occur in United States workplaces despite being prohibited by law for decades. During the federal fiscal year 2021,¹ 8,191 sexual harassment claims were filed with the federal government and companion state government agencies that administer sexual harassment laws.² Fifty-eight of these were filed in Utah. In 2019, pre-pandemic, 11,283 claims were filed nationwide, including 90 filed in Utah. The highest number of U.S. sexual harassment claims filed—16,245—occurred in 1997, and the highest number filed in Utah—186—occurred in 2003.

These numbers represent only a tiny fraction of workplace sexual harassment. A 2016 U.S. Equal Employment Opportunity Commission (EEOC)³ report noted surveys showing that 58% of women have experienced sex-based harassment, but only 30% of individuals raised it to a supervisor, manager, or union representative and only 6% to 13% of individuals file a formal legal complaint.⁴ Another report found that about five million employees are sexually harassed at work each year, but 99.8% never file a legal claim.⁵ Further, a 2020 Utah Women & Leadership Project study regarding sexist comments in the workplace found that 37% of women surveyed heard sex-based comments, but only 4% reported them to a superior.⁶

Workplace sexual harassment causes harm. Harms to individuals being sexually harassed include negative mental and physical health effects, reduced opportunities for on-the-job learning and advancement, forced job changes, unemployment, and/or abandonment of well-paying careers.⁷ These “psychological, physical, occupational, and economic harms ... can ruin an employee’s life.”⁸ Sexual

¹ The federal fiscal year runs from October 1 of one year through September 30 of the next. USA.gov. (n.d.). Budget of the U.S. Government. <https://www.usa.gov/budget#:~:text=Every%20year%2C%20Congress%20begins%20work,September%2030%20of%20the%20next>

² U.S. Equal Employment Opportunity Commission (EEOC). (n.d.) EEOC & FEPA charges filed alleging sexual harassment, by state & gender FY 1997 - FY 2021. <https://www.eeoc.gov/statistics/eeoc-fepa-charges-filed-alleging-sexual-harassment-state-gender-fy-1997-fy-2021>

³ The EEOC is the federal agency responsible for enforcing the federal anti-harassment law.

⁴ Feldblum, C., & Lipnic, V. (2016 June). *Select task force on the study of harassment in the workplace*. <https://www.eeoc.gov/select-task-force-study-harassment-workplace>. Sex-based harassment includes letters, phone calls, or materials of a sexual nature; pressure for sexual favors; touching, leaning over, cornering, or pinching; pressure for dates; sexually suggestive looks or gestures; and sexual teasing, jokes, remarks or questions.

⁵ McCann, C., Tomaskovic-Devey, D., & Badgett, M. (n.d.). Employer's responses to sexual harassment. *Center for Employment Equity, University of Massachusetts Amherst*. <https://www.umass.edu/employmentequity/employers-responses-sexual-harassment>

⁶ Scribner, R. T., Madsen, S. R., & Townsend, A. (2021, November 4). *Sexist comments & responses: Study introduction and overview*. Utah Women & Leadership Project. <https://www.usu.edu/uwlp/files/briefs/38-sexist-comments-study-introduction-overview.pdf>. The study examined 23 categories of sexist comments. Of those, this paper draws data from six categories: accusations of using sex to get ahead, focus on physical appearance/bodies, sexual harassment, sexualizing women, unwanted sexual advances, and unwanted sexual advances.

⁷ Shaw, E., Hegewisch, A., & Hess, C. (2018 October). *Sexual harassment and assault at work: Understanding the costs*. Institute for Women’s Policy Research. https://iwpr.org/wp-content/uploads/2020/09/IWPR-sexual-harassment-brief_FINAL.pdf

⁸ Feldblum, C., & Lipnic, V. (2016).

harassment harms employers as well. These harms include legal costs, reputational damage, increased employee turnover, increased absences, and reduced productivity.⁹

The 2016 EEOC report previously cited called for a “reboot of harassment prevention efforts” and issued a call to action:

[The EEOC] will always only be one piece of the solution. Everyone in society must feel a sense of urgency in preventing harassment [including]: ... state ... government agencies This is the only way we will achieve the goal of reducing the level of workplace harassment to the lowest level possible.”¹⁰

With 60% of Utah’s women participating in the workforce,¹¹ it is time for Utah’s lawmakers to act on the EEOC’s call for action to reduce workplace sexual harassment within our state. To frame a pathway for legislative action, this paper provides a short history and background of the federal and Utah sexual harassment laws, along with mentioning a few related recent events and federal/state law responses. This report then summarizes current federal and state harassment laws and concludes with targeted recommendations for Utah’s lawmakers.

History and Background

In 1964, the U.S. Congress passed the Civil Rights Act. Title VII of this Act prohibited covered employers from discriminating “against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual’s ... sex[.]”¹² However, it was not until 1980 that the EEOC issued regulations declaring that sexual harassment violated Title VII,¹³ and not until 1986 that the U.S. Supreme Court confirmed this.¹⁴

Utah passed its antidiscrimination law in 1969.¹⁵ It prohibited discrimination on the basis of sex. A prohibition against retaliation was added in 1985 and another against harassment in 1989.¹⁶ A regulation issued by the state government agency—the Utah Antidiscrimination and Labor Division (UALD) of the Utah Labor Commission—currently defines sexual harassment identical to the federal regulation, which was first adopted in 1988.¹⁷

Two recent events have also impacted the US sexual harassment landscape. First, as mentioned above, the EEOC issued a report in 2016, which was the 30th anniversary of the U.S. Supreme Court case recognizing that Title VII prohibited sexual harassment.¹⁸ Report authors were struck by the number of sexual and other harassment complaints the EEOC continued to receive each year. After examining workplace harassment for 18 months, report authors concluded that “we have come a far way since that day [thirty years ago], but sadly and too often still have far to go.”¹⁹ The report’s executive summary included the following key findings:

- Workplace harassment remains a persistent problem.

⁹ Feldblum, C., & Lipnic, V. (2016); Shaw, E., Hegewisch, A., & Hess, C. (2018).

¹⁰ Feldblum, C., & Lipnic, V. (2016).

¹¹ Utah Department of Workforce Services. (2021 January). *2015 - 2019 women in the workforce*. <https://jobs.utah.gov/wi/data/library/laborforce/womeninwf.html>

¹² See 42 U.S.C. § 2000e-2(a)(1).

¹³ 29 C.F.R. § 1604.11.

¹⁴ *Meritor Savings Bank v. Vinson*, 477 U.S. 57 (1986).

¹⁵ 1969 Utah Laws 451 (Initial code section was Utah Code § 34-35-6(1)(a)).

¹⁶ 1985 Utah Laws 530; 1989 Utah Laws 376 (Current code section is Utah Code Ann. § 34A-5-106(1)(a)(i)).

¹⁷ As initially adopted in 1988, the regulation said “[t]he Division adopts the federal EEOC guidelines on sexual harassment as specified in 29 CFR Section 1604.11.” Utah Admin Code § R486-1-1(K) (1988). In 1994, it was changed to specifically lay out the definition of sexual harassment, which definition is the same as that in 29 C.F.R. 1604.11 quoted in the body above. Utah Admin. Code § R560-1-2(K) (1994). The current rule is found at Utah Admin. Code § R606-1-2(J).

¹⁸ Feldblum, C., & Lipnic, V. (2016).

¹⁹ Feldblum, C., & Lipnic, V. (2016).

- Workplace harassment too often goes unreported.
- There is a compelling business case for stopping and preventing harassment.
- Prevention starts at the top; leadership and accountability are critical.
- Harassment training must change. New and different approaches to training should be explored.
- A nationwide “It’s on Us” campaign should be explored to transform the problem of workplace harassment from being about targets, harassers, and legal compliance, into one in which co-workers, supervisors, clients, and customers all have roles to play in stopping harassment.²⁰

Second, in late 2017, the #MeToo movement began. This is a movement—against sexual abuse, sexual harassment, and rape culture—in which people publicize their experiences of sexual abuse or sexual harassment.²¹ Following numerous sexual abuse allegations against Harvey Weinstein in October 2017, the movement spread as a hashtag on social media.²² On October 15, 2017, American actress Alyssa Milano posted on Twitter, “If all the women who have been sexually harassed or assaulted wrote ‘Me too’ as a status, we might give people a sense of the magnitude of the problem.”²³ Tens of thousands of people replied with #MeToo stories.²⁴ The movement led to high-profile terminations such as Matt Lauer from the Today show and Garrison Keillor from Minnesota Public Radio.²⁵

Following these two events, Congress and state legislatures acted. Congress passed two laws. The first prohibits income tax deductions for sexual harassment settlements and related attorney fees if such settlements are subject to nondisclosure agreements.²⁶ The second prohibits pre-dispute arbitration agreements and class action waiver agreements relating to sexual harassment disputes.²⁷ Similarly, by 2020, 12 states²⁸ adopted laws to curtail the use of nondisclosure agreements and seven states²⁹ prohibited pre-arbitration agreements, class action waivers, and jury trial waivers in sexual harassment cases.³⁰ Additional new state laws enacted by 2020:

- expanded the employers covered by sexual harassment laws (two states)³¹
- changed the definition of sexual harassment to make it easier to prove (two states)³²
- extended statutes of limitations to file sexual harassment claims (five states)³³

²⁰ Feldblum, C., & Lipnic, V. (2016).

²¹ MeToo movement. (n.d.) In *Wikipedia*. [https://en.wikipedia.org/wiki/MeToo_movement#2017_\(Alyssa_Milano\)](https://en.wikipedia.org/wiki/MeToo_movement#2017_(Alyssa_Milano)). The phrase was originally used in 2006 by sexual assault survivor and activist Tarana Burke. Chicago Tribune. (2021, February 4). *#MeToo: A timeline of events*. <https://www.chicagotribune.com/lifestyles/ct-me-too-timeline-20171208-htmlstory.html>

²² MeToo movement. (n.d.).

²³ MeToo movement. (n.d.).

²⁴ MeToo movement. (n.d.).

²⁵ Chicago Tribune. (2021).

²⁶ 26 U.S.C. § 162(q).

²⁷ 9 U.S.C. § 402(a).

²⁸ Arizona, California, Illinois, Louisiana, Nevada, New Jersey, New York, Oregon, Tennessee, Vermont, Virginia, and Washington. Johnson, A., Menefee, K., & Sekaran, R. (2019 Dec); *Progress in advancing Me Too workplace reforms in #20statesby2020*. National Women’s Law Center. https://nwlc.org/wp-content/uploads/2019/07/final_2020States_Report-12.20.19-v2.pdf; Christiansen, E. (2020, May 8). *How are the laws sparked by #MeToo affecting workplace harassment?* American Bar Association. <https://www.americanbar.org/groups/litigation/publications/litigation-news/featured-articles/2020/new-state-laws-expand-workplace-protections-sexual-harassment-victims/>

²⁹ California, Illinois, Maryland, New Jersey, New York, Vermont, and Washington. Johnson, A., Menefee, K., & Sekaran, R. (2019); Christiansen, E. (2020).

³⁰ Christiansen, E. (2020).

³¹ Maryland and New York. Johnson, A., Menefee, K., & Sekaran, R. (2019).

³² California and New York. Johnson, A., Menefee, K., & Sekaran, R. (2019); New York State Division of Human Rights (n.d.). *Important updates to the New York State Human Rights Law*. <https://dhr.ny.gov/sites/default/files/pdf/nysdhr-legal-updates-10112019.pdf>

³³ California, Connecticut, Maryland, New York, and Oregon. Johnson, A., Menefee, K., & Sekaran, R. (2019).

- extended liability to individuals along with employers (one state)³⁴
- allowed punitive damages (one state)³⁵
- required sexual harassment training (six states)³⁶
- required written sexual harassment policies (five states)³⁷
- imposed reporting and disclosure requirements to state government agencies (two states)³⁸

Summary of Current Federal and State Harassment Laws

UWLP researchers began this project by conducting a thorough federal and 50-state analysis of current sexual harassment laws (see Appendix A). Data were collected from all states by exploring sources based on answering 15 specific questions:

1. Is there a law that prohibits sexual harassment in the workplace?
2. Does the law define sexual harassment?
3. What employers does the law cover?
4. What employees does the law cover?
5. Does the law provide for personal liability against a company leader/supervisor or just organizational liability?
6. Are there general exceptions?
7. Is there an anti-retaliation provision in the law?
8. What is the enforcement agency?
9. Does the law give the employee an immediate private right of action in court?
10. What is the law's statute of limitations?
11. Are the following types of damages and remedies available in the law (equitable, compensatory, punitive, and attorney fees/court costs for prevailing party)?
12. Does the law require workplace sexual harassment training? If yes, of whom and how often?
13. Does the law require employers to display notice to employees of sexual harassment protection?
14. Does the law require that employers have a written sexual harassment policy?
15. Do the laws include other sexual harassment protections? (Appendix A titles this as "Other Information")

Appendix B provides a summary of the results of each of these questions. The section below includes a high-level overview of the findings of this research.

Federal: Title VII does not explicitly prohibit sexual harassment, but EEOC regulations state Title VII prohibits it and also define it. The law applies to persons with 15 or more employees and defines those protected as individuals employed by such employers. There are exceptions to definitions of employer and employee. For example, *employers* do not include the United States government, and *employees* do not include state elected officials. Title VII prohibits retaliation against those who raise sexual harassment concerns.

Individuals who feel they have been sexually harassed must file a charge with the EEOC; they cannot immediately file a lawsuit in court. Charges must be filed within 180 days of the harassment, which is extended to 300 days if a state or local agency enforces a law that prohibits employment discrimination on the same basis. Individuals can recover equitable damages like reinstatement and back pay, compensatory and punitive damages (capped based on employer size), and attorney fees and costs. The statutory language is unclear as to whether individuals can recover damages from organization leaders, in addition to organizations. In addition, Title VII does not require employers to provide sexual harassment

³⁴ California. Christiansen, E. (2020).

³⁵ New York. Johnson, A., Menefee, K., & Sekaran, R. (2019).

³⁶ California, Connecticut, Delaware, Illinois, Maine, and New York. Johnson, A., Menefee, K., & Sekaran, R. (2019); Christiansen, E. (2020).

³⁷ Illinois, New York, Oregon, Vermont, and Washington. Johnson, A., Menefee, K., & Sekaran, R. (2019).

³⁸ Illinois and Maryland. Christiansen, E. (2020).

training or have a written sexual harassment policy. The required Title VII workplace poster does not mention sexual harassment.

As mentioned previously, newer sexual-harassment-protection laws preclude pre-dispute arbitration agreements and joint/class-action waivers, as well as income tax deductions for any settlement/payment related to sexual harassment and accompanying attorney fees if subject to a nondisclosure agreement.

Other States: Three states have no applicable law. Of the remaining 46 states (excluding Utah), 38 prohibit sexual harassment, 17 explicitly in their laws and 21 based on government agency regulations or websites. Eight additional states prohibit sex discrimination, but do not mention sexual harassment in their laws or government agency regulations or websites. Of the 38 states that prohibit sexual harassment, 29 define sexual harassment either in their laws or government agency regulations. Forty-five of the 46 states that prohibit sexual harassment directly or sex discrimination more broadly apply to persons with 15 or fewer employees, with one employee being the most common (21 states). Many state laws also apply to state, county, and local government employers. A few also apply to agents of another person/employer, government contractors, and/or those employing domestic employees. Twenty-five state laws define protected employees identically or similarly to the federal definition, “[a]n individual employed by an employer.” Six of these connect the employee definition to pay or wages. One of these adds that full-time and part-time employees are protected. A few also protect applicants, apprentices, unpaid interns, volunteers, and/or independent contractors. Thirty-nine state laws include exceptions to their employer and/or employee definitions, or to the application of the entire law. Forty-four state laws preclude retaliation.

Forty-four³⁹ of the 46 states that have applicable laws (not including Utah) have a state enforcement agency. In 29 states, individuals who feel they have been sexually harassed must file a charge with this agency; they cannot immediately file a lawsuit in court. In the remaining 17 states, an individual can file a lawsuit in court, three of these only in limited circumstances. The allowed time to file a charge or lawsuit ranges from 180 days to six years. Individuals are explicitly allowed to recover equitable damages in 40 states, compensatory damages in 30 states (capped in 14), punitive damages in 24 states (capped in 15), and attorney fees/costs in 33 states. In addition to organizations, four states explicitly allow claimants to recover damages from organization leaders as well. Four states explicitly prohibit this, three states’ do not mention this, and 35 states’ laws are unclear.

Nineteen states require training for at least some employees. Twenty-one require at least some organizations to display a notice of sexual harassment protections. Twelve require at least some organizations to have written policies.

The most-common, newer state laws providing sexual harassment protections prohibit nondisclosure agreements in sexual harassment settlements (14 states). Other newer state laws prohibit arbitration of sexual harassment claims, extend protections to independent contractors, and require organizations to report sexual harassment information to the government.

Utah: Utah’s law prohibits sexual harassment in the workplace and UALD regulations define sexual harassment the same as the EEOC regulation. Utah’s law applies to persons employing 15 or more employees, as well as the State, a political subdivision, and a board, commission, department, institution, school district, trust, or agent of the state or a political subdivision of the state. It does not apply to various religious entities and leaders, as well as the Boy Scouts. The law protects a person applying with or employed by an employer and does prohibit retaliation.

Utah’s enforcement agency is the UALD. Claimants must file a charge with the UALD, and they cannot bring a lawsuit in state civil court. Charges must be filed within 180 days. Utah’s law explicitly mentions that individuals can be awarded equitable relief (reinstatement, as well as back pay and benefits), and attorney fees/costs. It does not mention compensatory or punitive damages. The statutory language is

³⁹ One of the two excluded here is North Carolina, which does not have an agency for charges by employees of private employers, but does have one for employees of state and local government employees.

unclear as to whether individuals can recover damages from organizational leaders in addition to organizations.

Utah only requires *state* employees to receive sexual harassment training. It does not require employers to display notices to employees of sexual harassment protections or have written sexual harassment policies. Utah also has not adopted any newer types of sexual-harassment-protection laws.

Recommendations for Utah

The continuing prevalence of workplace sexual harassment, its harms, and the large percentage of Utah women in the workforce provide an incontrovertible basis for Utah to act on the EEOC's call to reduce workplace harassment. Based on our extensive research, we propose the following three areas of recommendations for Utah legislative action.

1. REQUIRE PREVENTION MEASURES AND PROVIDE EMPLOYER TOOLS.

Utah should focus on the root of the problem—workplace sexual harassment continues despite being prohibited for decades—and require three prevention measures based on the premise that awareness is the first step to change.⁴⁰

- a. **REQUIRE EMPLOYERS TO CONDUCT RECURRENT SEXUAL HARASSMENT TRAINING:** Utah should require all employers covered by its antidiscrimination act to provide recurrent sexual harassment training, not just state employers. Forty-one percent of the other 46 states with applicable laws ($n = 19$) require at least some employers to provide such training. However, “much of the training done over the last 30 years has not worked as a prevention tool. ... Training must change.”⁴¹ The 2016 EEOC report recommended and provided specifics for four types of training: (1) all-employee compliance training on a regular basis; (2) middle-management and first-line supervisor training; (3) workplace civility training; and (4) bystander intervention training.⁴² When formulating sexual harassment training requirements, Utah should review and incorporate these specifics, as well as research done in the intervening years.⁴³ To date, we specifically recommend the two types of training that have shown the most promising results: (2) middle-management and first-line supervisor training and (4) bystander intervention training.⁴⁴ Additionally, Utah should allocate appropriate budget and resources to the UALD to prepare models of these types of trainings. The UALD could also be tasked to prepare model training on conducting investigations, due to the EEOC's recommendation that employers “devote sufficient resources so that workplace investigations are prompt, objective, and thorough.”⁴⁵

⁴⁰ Sudbrink, L. (2015 April 15). *The five steps of change*. American Management Association. <https://www.amanet.org/articles/the-five-steps-of-change/>

⁴¹ Feldblum, C., & Lipnic, V. (2016).

⁴² Feldblum, C., & Lipnic, V. (2016).

⁴³ The EEOC Task Force report acknowledged “[a]s with workplace civility training, more research is needed to determine the effectiveness of bystander intervention training as a workplace harassment prevention measure.” Feldblum, C., & Lipnic, V. (2016). One intervening study confirmed that management and bystander intervention trainings were promising alternatives to existing sexual harassment trainings. Dobbin, F., & Kalev A. (2020 May-June). Why sexual harassment programs backfire. *Harvard Business Review*. <https://hbr.org/2020/05/why-sexual-harassment-programs-backfire>

⁴⁴ Dobbin, F., & Kalev, A. (2020, May-June); Lawrence, A. (2020, May-June). Empower managers to stop harassment. *Harvard Business Review*. <https://hbr.org/2020/05/empower-managers-to-stop-harassment>; Santos, A. (2020, May-June). “If something feels off, you need to speak up.” *Harvard Business Review*. <https://hbr.org/2020/05/if-something-feels-off-you-need-to-speak-up>

⁴⁵ Feldblum, C., & Lipnic, V. (2016).

- b. **REQUIRE EMPLOYERS TO POST NOTICE OF SEXUAL HARASSMENT RIGHTS:** Forty-six percent of the other 46 states with applicable laws ($n = 21$) require notices. As a tool for employers, Utah should direct the UALD to prepare a model poster.
- c. **REQUIRE EMPLOYERS TO HAVE AND PERIODICALLY DISTRIBUTE WRITTEN SEXUAL HARASSMENT POLICIES:** Utah should require employers to have a written sexual harassment policy that is distributed to new hires and periodically thereafter, perhaps along with the recurrent trainings. While fewer of the other 46 states with applicable laws require such policies ($n = 12$), this is a trending step in the #MeToo era and it would be efficient for Utah to advance sexual harassment awareness in one holistic step. Utah should incorporate recommendations from the 2016 EEOC report (e.g., comprehensive anti-harassment policy, multi-faceted reporting procedures) and task the UALD to prepare a model policy.⁴⁶
- d. **CONDUCT COMPREHENSIVE, STATE-WIDE STUDY ON SEXUAL HARASSMENT INCIDENTS, REQUIRE EMPLOYERS TO REPORT SEXUAL HARASSMENT DATA TO UALD, AND ENACT ADDITIONAL PREVENTION MEASURES BASED ON DATA:** Beyond the above three prevention measures, Utah would be prudent to increase the government's collective awareness regarding why workplace sexual harassment continues despite being prohibited for decades so that it can implement other prevention measures. To do so, Utah could conduct a comprehensive study on workplace sexual harassment occurring in Utah. It could also require employers to report sexual harassment data to the UALD. (Illinois requires employers to annually disclose their total number of adverse sexual harassment agency rulings.⁴⁷ Maryland requires certain employers to report sexual harassment settlement data, with the state agency then submitting a summary to government leaders).⁴⁸ Once collected, Utah could implement additional prevention measures based on the data.

2. TAKE STEPS TO REDUCE RETALIATION.

Utah should next focus on the troubling corollary to the problem's root. Not only does workplace sexual harassment continue, but the vast majority of women experiencing it do not report it or bring legal claims because of retaliation. "Sixty-eight percent of sexual harassment allegations [filed with the EEOC and companion state government agencies] include a charge of employer retaliation in the face of a discrimination complaint. Almost two-thirds of those filing sexual harassment charges (64%) report losing their jobs because of their complaint. ... The very low proportion of employees who file sexual harassment complaints is very likely to be related to employers' typically punitive responses."⁴⁹ These sobering percentages exist even though the federal government, Utah, and 44 of the other 46 states with applicable laws prohibit retaliation. Utah should take the following steps to reduce retaliation.

- a. **MANDATE THAT REQUIRED SEXUAL HARASSMENT TRAINING ALSO COVER RETALIATION:** Returning to the premise that awareness is the first step to change, Utah should require the various types of workplace sexual harassment training to also cover retaliation. When crafting training requirements, Utah should review appropriate research to determine how to best raise awareness about preventing workplace retaliation.

⁴⁶ Feldblum, C., & Lipnic, V. (2016).

⁴⁷ 775 ILCS 5/2-108(B), (C).

⁴⁸ Md. S.B. 1010 (2018).

⁴⁹ McCann, C., Tomaskovic-Devey, D., & Badgett, M. (n.d.).

- b. MANDATE THAT REQUIRED SEXUAL HARASSMENT NOTICE ALSO INCLUDE RETALIATION RIGHTS: Utah should direct the UALD to include retaliation information in the model poster.
- c. MANDATE THAT REQUIRED SEXUAL HARASSMENT POLICIES ALSO PROHIBIT RETALIATION: Rolling the awareness premise forward, Utah should require workplace sexual harassment policies to prohibit retaliation. Policies should include the multi-faceted reporting procedures recommended in the 2016 EEOC report. Such procedures can reduce retaliation because claimants can raise concerns to organizational leaders other than the alleged harasser or those allied therewith, whom are often those most inclined to retaliate.
- d. INCLUDE QUESTIONS ON RETALIATION INCIDENTS IN COMPREHENSIVE STATE-WIDE STUDY: If the comprehensive study suggested above is undertaken, Utah could include questions on workplace retaliation. This could be followed up with the implementation of additional steps to reduce retaliation based on the data collected.
- e. ADOPT LEGAL PROVISIONS TO DETER RETALIATION: Utah could adopt legal provisions to deter retaliation. For example, liability could be extended to *individuals* that engage in retaliation (in addition to organizations).⁵⁰ Available damages could also be increased for sexual harassment claims that include retaliation claims. Damages could follow Utah's law for compensation discrimination, which allows additional damages equal to back pay.⁵¹
- f. CHANGE UALD PROCEDURES: For example, Utah could implement methods and allocate appropriate resources to decrease the time the UALD takes to bring charges to closure. This would shorten the window of time during which retaliation could occur. Going further, UALD investigators could be required to check in during the investigation process to see if retaliation is happening. If so, appropriate penalties could be established. Finally, consideration could be given to the UALD fast-tracking retaliation charges in furtherance of government commitment to root out retaliation.

3. REMOVE BARRIERS TO LEGAL REDRESS.

Utah should remove barriers to legal redress that exist in the two current options claimants have for redress, as well as in Utah's Antidiscrimination Act. Doing so will reduce workplace sexual harassment by: (1) helping to timely resolve, and thus end, sexual harassment prompting claimants to seek legal redress; (2) deterring sexual harassment; and (3) providing legal recourse to address, and thus end, sexual harassment in situations currently lacking such recourse.

- a. BAN NONDISCLOSURE AND NO-REHIRE PROVISIONS IN PARTICULAR AGREEMENTS: The first option claimants have to seek legal redress for workplace sexual harassment in Utah is to settle with the employer. Utah could facilitate timelier settlements by prohibiting nondisclosure provisions ("NDAs") in such settlement agreements. These provisions restrict claimants from sharing information surrounding the concerns being settled.⁵² NDAs might also be in employment agreements, restricting employees from sharing information surrounding future sexual harassment concerns. Because "NDAs can silence individuals who have experienced harassment and empower employers to hide ongoing

⁵⁰ See recommendation 3.d. below.

⁵¹ Utah Code Ann. § 34A-5-107(9). Pennsylvania allows compensatory and attorney fees/costs only in connection with retaliation claims and South Dakota allows punitive damages only in connection with retaliation claims.

⁵² Limited allowances to disclose are required per federal law, such as allowing a claimant to file an EEOC claim.

harassment, rather than undertake the changes needed to end it[.]”⁵³ Utah should prohibit NDAs as conditions of both employment and settlement. Fourteen states have enacted similar laws. To balance employee and employer interests, Utah’s prohibition could bar NDAs that prevent employees from disclosing factual information but allow restrictions on disclosing settlement amounts.⁵⁴

Utah could also prohibit no-rehire provisions in workplace sexual harassment settlement agreements. These provisions state the claimant will not seek future employment with the employer or its related entities. While only three states have enacted such laws, these provisions add insult to injury. Not only have claimants been sexually harassed, but now they can no longer work for an organization where they have put in time and effort. Additionally, such provisions “disincentivize others from coming forward when they experience harassment.”⁵⁵

Removing these two barriers could restore some balance to the parties’ negotiating positions and thus help to move the negotiations to closure in a timelier manner and end the sexual harassment at issue. Such prohibitions may also further help to reduce workplace sexual harassment by deterring such conduct because the accused will want to avoid situations where they desire to settle a claim but cannot limit disclosure or future employment.

- b. **AUDIT UALD PROCESS AND IMPLEMENT LEGISLATIVE RESPONSES:** The second option claimants have to seek legal redress for sexual harassment in Utah is to file a charge of harassment with the UALD (or the EEOC). A January 2017 audit by the Utah Legislative Auditor General revealed barriers to the UALD process, including the investigation process was insufficient, mediations needed better processes, and the low rate of cause findings was concerning.⁵⁶ In response, the UALD indicated they would implement improvements, with most targeted to be completed by the end of 2017.⁵⁷ Given the audit’s findings and the passage of years, the time is ripe for Utah to re-audit the UALD process to ascertain if barriers have been removed and, if not, implement appropriate legislative responses to do so. Removing barriers to this option would help ensure that workplace sexual harassment is timely resolved and ended.
- c. **EXTEND STATUTE OF LIMITATION:** Utah’s current SOL is 180 days. This is the shortest SOL for civil claims in Utah, and it applies to only one other type of claim against tax collectors.⁵⁸ Of the 30 states (including Utah) that require an agency charge, 47% (N=14) have SOL’s longer than 180 days, with 300 days being the most common (N=8). Of the remaining 17 states that also allow a lawsuit, 94% (N=16) have SOLs for lawsuits of longer than 180 days, with one and two years tying for the most common (N=4 each). Nearly 30% (N=5) have SOLs of three years or longer. At a minimum, Utah should amend the Act to lengthen the SOL to at least 300 days, if not one or two years. However, because Utah follows the federal sexual harassment definition, a longer SOL is recommended. Many claimants must show the alleged harassment is pervasive, which requires a pattern over

⁵³ Johnson, A., Menefee, K., & Sekaran, R. (2019).

⁵⁴ For an example, see Cal. Civ. Proc. Code § 1001; Cal. Gov’t Code § 12964.5.

⁵⁵ Johnson, A., Menefee, K., & Sekaran, R. (2019).

⁵⁶ Office of the Legislative Auditor General, State of Utah. (2017 Utah). A performance audit of the Utah Antidiscrimination and Labor Division’s Employment Discrimination Unit.

<https://le.utah.gov/interim/2017/pdf/00002314.pdf>. For the federal fiscal year 2015, the UALD found cause in only 0.4% of the cases it closed. Comparatively, the EEOC had a 3.5% cause rate, and state government agencies nationwide has an average 1.5% cause rate.

⁵⁷ Maughan, J. (2017, January 11). <https://le.utah.gov/interim/2017/pdf/00002314.pdf>

⁵⁸ Utah Code Ann. § 78B-2-301.

- time.⁵⁹ Short SOLs do not allow the required pattern to materialize. Utah could apply its existing three-year SOL, which applies to liability created by state statutes.⁶⁰ The Act would be among such statutes if it did not otherwise specify a shorter SOL. If a longer SOL is adopted, Utah should analyze how it would interact with the EEOC’s 300-day SOL and determine if tolling or other coordination measures would be advisable.
- d. **ADD STATE COURT OPTION FOR LEGAL REDRESS:** Utah could allow claimants to immediately file a lawsuit in Utah’s civil courts.⁶¹ Thirty-seven percent of the other 46 states with applicable laws ($n = 17$) allow this. Doing so would be particularly vital to timely resolve and end sexual harassment if the recommended re-audit of the UALD process continues to show barriers. Even if the UALD process has no barriers, a private right of action will sometimes still be the timeliest way to resolve and end sexual harassment (e.g., for lawsuits involving multiple statutes – some of which are outside the UALD’s jurisdiction). Absent a private right of action, the claimant would have to pursue both an agency charge and a court action. This wastes the time (and money) of all involved—the claimant, the employer, and the government.
 - e. **ALLOW COMPENSATORY AND PUNITIVE DAMAGES AND ADD INDIVIDUAL LIABILITY:** Utah could also address two barriers that soften the deterrent impact of Utah’s Antidiscrimination Act. First, Utah’s Act could be amended to explicitly allow claimants to recover compensatory and punitive damages. The federal government allows both. Thirty states allow compensatory damages and 24 allow punitive damages. If Utah places caps on these damages, it could consider indexing them to rise over time.⁶² Second, in addition to organizations, Utah could hold individuals, such as managers and supervisors, liable for damages. Four states allow this and only four rule this out. The laws of three of the other 46 states with applicable laws are silent. The federal law, Utah’s law, and 35 of the other 46 states’ laws are not clear. Utah’s Act could be clarified to add individual liability for damages.⁶³
 - f. **EXPAND SCOPE OF UTAH’S ANTIDISCRIMINATION ACT:** Barriers in Utah’s Antidiscrimination Act preclude the current UALD process and any new lawsuit option from providing legal recourse in three situations. To overcome these barriers, Utah’s Act could be amended to expand its scope. Specifically, Utah could expand the definition of employer to include those with less than 15 employees.⁶⁴ Nearly one in five Utah employees work for such employers⁶⁵ and effectively have no legal recourse for sexual harassment unless it

⁵⁹ EEOC. (n.d.). Harassment. <https://www.eeoc.gov/harassment>. “Unless the conduct is quite severe, a single incident or isolated incidents of offensive sexual conduct or remarks generally do not create an abusive environment. ... A ‘hostile environment’ claim generally requires a showing of a pattern of offensive conduct. ... When the alleged harassment consists of verbal conduct, the investigation should ascertain the nature, frequency, context, and intended target of the remarks.” EEOC. (1990 March 19). Policy guidance on current issues of sexual harassment. <https://www.eeoc.gov/laws/guidance/policy-guidance-current-issues-sexual-harassment>

⁶⁰ Utah Code Ann. § 78B-2-305(4).

⁶¹ Claimants can opt out of the UALD process by requesting a right to sue letter from the EEOC, which allows them to bring a lawsuit in federal – not state – court.

⁶² Title VII’s damage caps on compensatory and punitive damages have not increased since 1991, when first enacted. 42 U.S.C. § 1981a(a)(1), (b)(3).

⁶³ Utah case law should be reviewed to account for any relevant cases in formulating the recommended amendments. In addition, study of the deterrent effect of other states’ laws expanding liability to individuals could be prudent in light of individuals’ more limited resources to pay damage awards.

⁶⁴ H.B. 283 in the 2018 legislative session proposed expanding coverage to employers who employ 5 employees.

⁶⁵ Carlisle, N. (2018 March 2). Utah Legislature passes a bill aimed at hostile workplaces, but 271,794 workers can still be sexually harassment and discriminated against with no legal recourse. *Salt Lake Tribune*.

constitutes egregious conduct under another law such as criminal or civil assault. Thirty-nine of the other 46 states with applicable laws cover employers with fewer than 15 employees, with one employee being the most common ($n = 21$). Next, Utah could expand the definition of sexual harassment. Two states have removed one portion of the federal definition, no longer requiring the conduct be severe or pervasive. Removing this would not result in a free-for-all. Claimants would still have to prove conduct was unwelcome, based on the protected class of sex, and had the purpose/effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment. Finally, Utah could refine the Act's exceptions. For example, the Act defines covered employers and then excludes religious entities from that definition. Thus, the Act's prohibitions, including its sexual harassment prohibition, do not apply to religious entities. Utah could amend its Act to align with federal Title VII and focus the religious-entity exclusion on the employment of individuals of a *particular religion*, meaning that a religious employer is excluded from the prohibition against religious discrimination and can hire a person of its religion, but not sexually harass that person.⁶⁶ Removing these barriers allows those legitimately experiencing workplace sexual harassment to seek legal recourse and put an end to it. Their removal could also deter those newly covered by the Act from engaging in sexual harassment, thereby reducing conduct that—but for the Act's outdated wording—would otherwise constitute prohibited harassment.

Conclusion

Tragically, workplace sexual harassment continues to happen today and is vastly under-reported. This harassment causes extensive harms to the individuals harassed, the vast majority of whom are women. For example, many of these women are harassed into leaving their jobs, despite being well-qualified, dependable workers. Workplace sexual harassment also harms organizations. One lost sexual harassment claim can set an employer back hundreds of thousands of dollars in both damages paid and talent lost. The extensiveness of these harms grows exponentially when juxtaposed with the reality that the majority of Utah's women participate in the workforce. Today's economy—with its low unemployment, need for skilled workers, and tight bottom-lines—can no longer withstand a workplace climate that forces capable women workers to the sidelines.

State legislatures have been called upon to act to reduce workplace sexual harassment. To answer this call, Utah's legislature should require workplace sexual harassment prevention measures, take steps to reduce retaliation that occurs once sexual harassment concerns are raised in the workplace, and remove barriers to legally redress this harassment. These actions will provide helpful compliance tools to Utah employers and modernize Utah's Antidiscrimination Act, which, as time has shown, left much to be done to significantly reduce workplace sexual harassment.

<https://www.sltrib.com/news/politics/2018/03/02/utah-legislature-passes-a-bill-aimed-at-hostile-workplaces-but-271794-workers-can-still-be-sexually-harassed-and-discriminated-against-with-no-legal-recourse/>

⁶⁶ Title VII defines covered employers and then excludes certain organizations from that definition—but not religious entities. It goes on to state that Title VII does not apply to “religious [entities] with respect to the employment of individuals of a *particular religion*,”⁶⁶ but religious entities must otherwise comply with all of Title VII's prohibitions, including that against sexual harassment. 42 U.S.C. § 2000e-1(a). While outside the scope of data collected for this paper, other western states such as Arizona (A.R.S §41-1462) and Nevada (Nev. Rev. Stat. Ann. § 613.320) provide this more focused religious-entity exclusion.

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Appendix A: Federal and 50–State Analysis of Sexual Harassment Laws¹

– FEDERAL –

<p>Is there a federal law that prohibits sexual harassment in the workplace? No. Federal law does not explicitly mention/prohibit sexual harassment. Federal law prohibits discrimination based on sex. <i>42 U.S.C § 2000e-2</i>. However, federal enforcement agency regulations provide that harassment based on sex is a violation of the federal employment antidiscrimination law. <i>29 C.F.R. § 1604.11(a)</i>.</p>
<p>Does the federal law define sexual harassment? No. However, federal enforcement agency regulations provide a definition. <i>29 C.F.R. § 1604.11(a)</i>.</p>
<p>What employers does the federal law cover? A person engaged in an industry affecting commerce who has 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year, and any agent of such a person. <i>42 U.S.C § 2000e(b)</i>.</p>
<p>What employees does the federal law cover? An individual employed by an employer. With respect to employment in a foreign country, employee includes an individual who is a citizen of the United States. <i>42 U.S.C § 2000e(f)</i>.</p>
<p>Does the federal law provide for personal liability against a company leader/supervisor or just organizational liability? Unclear. Depends on how courts have interpreted employer portion of definition “person” and “agent of such person.” <i>42 U.S.C § 2000e(b)</i>.</p>
<p>Are there general exceptions? Employee does not include any person elected to public office in any state or political subdivision of any state by the qualified voters thereof, or any person chosen by such officer to be on such officer’s personal staff, or an appointee on the policy making level or an immediate adviser with respect to the exercise of the constitutional or legal powers of the office. (This exemption does not include employees subject to the civil service laws of a state government, governmental agency, or political subdivision.) <i>42 U.S.C § 2000e(f)</i>.</p> <p>Employer does not include the United States, a corporation wholly owned by the Government of the United States, an Indian tribe, any department, or agency of the District of Columbia subject by statute to procedures of the competitive service (as defined in section 2102 of Title 5 [United States Code], or a bona fide private membership club (other than a labor organization) which is exempt from taxation under section 501(c) of Title 26. <i>42 U.S.C. § 2000e(b)</i>.</p> <p>This federal employment antidiscrimination law does not apply to an employer with respect to the employment of aliens outside any State. <i>42 U.S.C § 2000e-1(a)</i>.</p>
<p>Is there an anti–retaliation provision in the federal law? Yes. <i>42 U.S.C § 2000e-3</i>.</p>
<p>What is the federal enforcement agency? U.S. Equal Employment Opportunity Commission.</p>

¹ Analysis focused on federal and state antidiscrimination laws. It did not review court cases (“case law”) or county, city, or other municipal antidiscrimination laws. It also did not review laws outside of the specific antidiscrimination law; other federal and state laws might include provisions that touch on sexual harassment issues such as government employee requirements, tax issues, private rights of action, and available damages.

<p>Does the federal law give the employee an immediate private right of action in court? No.</p>
<p>What is the federal law's statute of limitations? 180 days to file charge with EEOC; Extended to 300 calendar days if a state or local agency enforces a law that prohibits employment discrimination on the same basis. <i>42 U.S.C § 2000e-5(e)(1)</i>.</p>
<p>Are the following types of damages and remedies available in the federal law?</p> <p>1. Equitable: Yes. <i>42 U.S.C § 2000e-5(g)(1)</i>.</p> <p>2. Compensatory: Yes*. <i>42 U.S.C. § 1981a(a)(1)</i>.</p> <p>3. Punitive: Yes*. <i>42 U.S.C. §1981a(a)(1)</i>.</p> <p>4. Attorney Fees/Court Costs for Prevailing Party: Yes. <i>42 U.S.C §§ 1988 & 2000e-5(k)</i>.</p> <p>*Total of 2 and 3 cannot exceed:</p> <ul style="list-style-type: none"> -in the case of a respondent who has more than 14 and fewer than 101 employees in each of 20 or more calendar weeks in the current or preceding calendar year, \$50,000; -in the case of a respondent who has more than 100 and fewer than 201 employees in each of 20 or more calendar weeks in the current or preceding calendar year, \$100,000; and -in the case of a respondent who has more than 200 and fewer than 501 employees in each of 20 or more calendar weeks in the current or preceding calendar year, \$200,000; and -in the case of a respondent who has more than 500 employees in each of 20 or more calendar weeks in the current or preceding calendar year, \$300,000. <i>42 U.S.C. § 1981a(b)(3)</i>.
<p>Does the federal law require workplace sexual harassment training? No.</p>
<p>Does the federal law require employers to display notice to employees of sexual harassment protection? No. Required poster only mentions discrimination on the basis of sex, not sexual harassment.</p>
<p>Does the federal law require that employers have a written sexual harassment policy? No.</p>
<p>Other Information: Arbitration Limited-At the election of an employee (plaintiff), no predispute arbitration agreement or predispute joint/class-action waiver shall be valid or enforceable with respect to a case which is filed under federal, tribal, or state law and relates to a sexual harassment dispute. <i>9 U.S.C. § 402(a)</i>.</p> <p>Income Tax-No income tax deduction is allowed for any settlement or payment related to sexual harassment or sexual abuse if such settlement or payment is subject to a nondisclosure agreement, or attorney's fees related to such a settlement or payment. <i>26 U.S.C. § 162(q)</i>.</p>

- ALABAMA -

<p>Is there a state law that prohibits sexual harassment in the workplace? No.</p>
<p>Does the state law define sexual harassment? N/A</p>
<p>What employers does the state law cover? N/A</p>
<p>What employees does the state law cover? N/A</p>
<p>Does the state law provide for personal liability against a company leader/supervisor or just organizational liability? N/A</p>

Are there general exceptions? N/A
Is there an anti-retaliation provision in the state law? N/A
What is the state enforcement agency? N/A
Does the state law give the employee an immediate private right of action in court? N/A
What is the state law's statute of limitations? N/A
Are the following types of damages and remedies available in the state law? 1. Equitable: N/A 2. Compensatory: N/A 3. Punitive: N/A 4. Attorney Fees/Court Costs for Prevailing Party: N/A
Does the state law require workplace sexual harassment training? If yes, of whom and how often? N/A
Does the state law require employers to display notice to employees of sexual harassment protection? N/A
Does the state law require that employers have a written sexual harassment policy? N/A
Other Information

- ALASKA -

<p>Is there a state law that prohibits sexual harassment in the workplace? No. State law does not explicitly mention/prohibit sexual harassment. State law prohibits discrimination based on sex. <i>Alaska Stat. § 18.80.220</i>. However, sexual harassment appears to be encompassed within prohibited discrimination based on state enforcement agency publication. https://humanrights.alaska.gov/wp-content/uploads/2021/02/Quick-Facts-for-Employers.pdf</p>
<p>Does the state law define sexual harassment? No.</p>
<p>What employers does the state law cover? A person, including the state and a political subdivision of the state, who has one or more employees in the state. <i>Alaska Stat. § 18.80.300</i>.</p>
<p>What employees does the state law cover? An individual employed by an employer. <i>Alaska Stat. § 18.80.300</i>.</p>
<p>Does the state law provide for personal liability against a company leader/supervisor or just organizational liability? Unclear. Depends on how courts have interpreted employer portion of definition “person.” <i>Alaska Stat. § 18.80.300</i>.</p>
<p>Are there general exceptions? Employee does not include an individual employed in the domestic service of any person. <i>Alaska Stat. § 18.80.300</i>.</p>

Employer does not include a club that is exclusively social, or a fraternal, charitable, educational, or religious association or corporation, if the club, association, or corporation is not organized for private profit. <i>Alaska Stat. § 18.80.300.</i>
Is there an anti-retaliation provision in the state law? Yes. <i>Alaska Stat. § 18.80.220.</i>
What is the state enforcement agency? Alaska State Commission for Human Rights.
Does the state law give the employee an immediate private right of action in court? No.
What is the state law's statute of limitations? 300 days. <i>6 AAC § 30.230.</i>
Are the following types of damages and remedies available in the state law? 1. Equitable: Yes. 2. Compensatory: No. 3. Punitive: No. 4. Attorney Fees/Court Costs for Prevailing Party: Yes. <i>Alaska Stat. § 18.80.130.</i>
Does the state law require workplace sexual harassment training? If yes, of whom and how often? No.
Does the state law require employers to display notice to employees of sexual harassment protection? No.
Does the state law require that employers have a written sexual harassment policy? No.
Other Information

- ARIZONA -

Is there a state law that prohibits sexual harassment in the workplace? No. State law does not explicitly mention/prohibit sexual harassment. State law prohibits discrimination based on sex. <i>A.R.S. § 41-1463.</i> However, sexual harassment appears to be encompassed within prohibited discrimination based on the definition of employer. <i>A.R.S. § 41-1461(7)(a).</i>
Does the state law define sexual harassment? No.
What employers does the state law cover? A person who has 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year, and any agent of that person, except that to the extent that any person is alleged to have committed any act of sexual harassment, employer means, for purposes of administrative and civil actions regarding those allegations of sexual harassment, a person who has one or more employees in the current or preceding calendar year. <i>A.R.S. § 41-1461(7)(a).</i>
What employees does the state law cover? An individual employed by an employer. <i>A.R.S. § 41-1461(6)(a).</i>
Does the state law provide for personal liability against a company leader/supervisor or just organizational liability? Unclear. Depends on how courts have interpreted employer portion of definition of “person” and “agent of that person.” <i>A.R.S. § 41-1461(7)(a).</i>

<p>Are there general exceptions? Employee does not include an elected public official of the state or any political subdivision of the state, any person chosen by an elected official to be on the elected official's personal staff, an appointee on the policymaking level, or an immediate adviser with respect to the exercise of the constitutional or legal powers of the office, unless the person or appointee is subject to the civil service laws of the state or any political subdivision of the state. <i>A.R.S. § 41-1461(6)(b)</i>.</p> <p>Employer does not include the United States or any department or agency of the United States, a corporation wholly owned by the government of the United States, an Indian tribe, or a bona fide private membership club, other than a labor organization, that is exempt from taxation under section 501(c) of the internal revenue code of 1954. <i>A.R.S. § 41-1461(7)(b)</i>.</p>
<p>Is there an anti-retaliation provision in the state law? Yes. <i>A.R.S. § 14-1464</i>.</p>
<p>What is the state enforcement agency? Arizona Attorney General's Office, Civil Rights Division.</p>
<p>Does the state law give the employee an immediate private right of action in court? No.</p>
<p>What is the state law's statute of limitations? 180 days. <i>A.R.S. § 41-1481(A)</i>.</p>
<p>Are the following types of damages and remedies available in the state law?</p> <ol style="list-style-type: none"> 1. Equitable: Yes. 2. Compensatory: Not mentioned. 3. Punitive: Not mentioned. 4. Attorney Fees/Court Costs for Prevailing Party: Yes. <i>A.R.S. § 41-1481</i>.
<p>Does the state law require workplace sexual harassment training? If yes, of whom and how often? No.</p>
<p>Does the state law require employers to display notice to employees of sexual harassment protection? No. Required poster only mentions discrimination on the basis of sex, not sexual harassment.</p>
<p>Does the state law require that employers have a written sexual harassment policy? No.</p>
<p>Other Information: Agreements-Public employers are prohibited from using public monies as consideration for a nondisclosure agreement relating to a sexual assault or sexual harassment claim. <i>A.R.S. § 12-720(D)</i>.</p>

- ARKANSAS -

<p>Is there a state law that prohibits sexual harassment in the workplace? No. State law does not explicitly mention/prohibit sexual harassment. State law prohibits discrimination based on gender. <i>Ark. Code Ann. § 16-123-107</i>.</p>
<p>Does the state law define sexual harassment? No.</p>
<p>What employers does the state law cover? A person who employs nine or more employees in the state in each of 20 or more calendar weeks in the current or preceding calendar year. <i>Ark. Code Ann. § 16-123-102(5)</i>.</p>

<p>What employees does the state law cover? Not defined, except by exception-see exceptions.</p>
<p>Does the state law provide for personal liability against a company leader/supervisor or just organizational liability? Unclear. Depends on how courts have interpreted employer portion of definition “person.” <i>Ark. Code Ann. § 16-123-102(5)</i>.</p>
<p>Are there general exceptions? Employee does not include any individual employed by his or her parents, spouse, or child, an individual participating in a specialized employment training program conducted by a nonprofit sheltered workshop or rehabilitation facility, or an individual employed outside the state. <i>Ark. Code Ann. § 16-123-102(4)</i>. The state employment antidiscrimination law does not apply to employment by a religious corporation, association, society, or other religious entity. <i>Ark. Code Ann. § 16-123-103</i>.</p>
<p>Is there an anti-retaliation provision in the state law? Yes. <i>Ark. Code Ann. § 16-123-108</i>.</p>
<p>What is the state enforcement agency? No state enforcement agency.</p>
<p>Does the state law give the employee an immediate private right of action in court? Yes. <i>Ark. Code Ann. § 16-123-107(c)(1)</i>.</p>
<p>What is the state law's statute of limitations? One year for private court action. <i>Ark. Code Ann. § 16-123-107(c)(4)</i>.</p>
<p>Are the following types of damages and remedies available in the state law?</p> <ol style="list-style-type: none"> 1. Equitable: Yes. <i>Ark. Code Ann. § 16-123-107(c)(1)</i>. 2. Compensatory: Yes*. <i>Ark. Code Ann. § 16-123-107(c)(2)</i>. 3. Punitive: Yes*. <i>Ark. Code Ann. § 16-123-107(c)(2)</i>. 4. Attorney Fees/Court Costs for Prevailing Party: Yes. <i>Ark. Code Ann. § 16-123-107(c)(1)</i>. <p>*Total of 2 and 3 cannot exceed:</p> <ul style="list-style-type: none"> -the sum of \$15,000 in the case of an employer who employs fewer than 15 employees in each of 20 or more calendar weeks in the current or preceding calendar year; -the sum of \$50,000 in the case of an employer who employs more than 14 and fewer than 101 employees in each of 20 or more calendar weeks in the current or preceding calendar year; -the sum of \$100,000 in the case of an employer who employs more than 100 and fewer than 201 employees in each of 20 or more calendar weeks in the current or preceding calendar year; -the sum of \$200,000 in the case of an employer who employs more than 200 and fewer than 501 employees in each of 20 or more calendar weeks in the current or preceding calendar year; and -the sum of \$300,000 in the case of an employer who employs more than 500 employees in each of 20 or more calendar weeks in the current or preceding calendar year. <i>Ark. Code Ann. § 16-123-107(c)(2)</i>.
<p>Does the state law require workplace sexual harassment training? If yes, of whom and how often? No.</p>
<p>Does the state law require employers to display notice to employees of sexual harassment protection? No.</p>
<p>Does the state law require that employers have a written sexual harassment policy? No.</p>

Other Information

- CALIFORNIA -

Is there a state law that prohibits sexual harassment in the workplace? Yes. *Cal. Gov. Code § 12940(j)*.

Does the state law define sexual harassment? No. Law does not define sexual harassment but does clarify that harassment because of sex includes sexual harassment, gender harassment, and harassment based on pregnancy, childbirth, or related medical conditions. Sexually harassing conduct need not be motivated by sexual desire. *Cal. Gov. Code § 12940(j)(4)(C)*.

What employers does the state law cover? Any person regularly employing one or more persons or regularly receiving the services of one or more persons providing services pursuant to a contract, any person acting as an agent of an employer, directly or indirectly, the state, any political or civil subdivision of the state, and cities. *Cal. Gov. Code § 12940(j)(4)(A)*.

What employees does the state law cover? Not mentioned. Law extends protections to “applicants, unpaid interns or volunteers, or persons providing services pursuant to a contract.” *Cal. Gov. Code § 12940(j)(1)*.

Does the state law provide for personal liability against a company leader/supervisor or just organizational liability? Yes. *Cal. Gov. Code § 12940(j)(3)*.

Are there general exceptions? Employee does not include any individual employed by that person’s parent, spouse, or child. *Cal. Gov. Code § 12926(c)*.

Employer does not include a religious association or corporation not organized for private profit. *Cal. Gov. Code § 12926(d)*.

Is there an anti-retaliation provision in the state law? Yes. *Cal. Gov. Code § 12940(h)*.

What is the state enforcement agency? California Department of Fair Employment and Housing.

Does the state law give the employee an immediate private right of action in court? No.

What is the state law's statute of limitations? Three years. *Cal. Gov. Code § 12960(e)(5)*.

Are the following types of damages and remedies available in the state law?

- 1. Equitable:** Yes. <https://www.dfeh.ca.gov/employment/#remediesBody>
- 2. Compensatory:** Yes. <https://www.dfeh.ca.gov/employment/#remediesBody>
- 3. Punitive:** Yes. *Cal. Civ. Code §3294*.
- 4. Attorney Fees/Court Costs for Prevailing Party:** Yes. *Cal Govt Code 12965(c)(6)*.

Does the state law require workplace sexual harassment training? If yes, of whom and how often? Yes. By employers with five or more employees; two hours of training to all supervisory employees, and one hour of training to all non-supervisory employees within six months of assuming the position; training then required every two years. *Cal. Gov. Code § 12950.1*.

Does the state law require employers to display notice to employees of sexual harassment protection? Yes. *Cal. Gov. Code § 12940(k)*.

Does the state law require that employers have a written sexual harassment policy? Yes. *Cal. Code Regs. tit. 2, § 11023(c).*

Other Information: Agreements-Employers cannot condition employment, continued employment, or a raise or bonus on:

-the signing of a release of a claim or right under the Fair Employment and Housing Act (“FEHA”);
-the execution of a statement that the employee does not have any claim or injury against the employer or other covered entity and releasing the right to file and pursue a civil action or complaint with a state enforcement agency, public prosecutor, law enforcement agency, or any court or other governmental entity; or

-the signing a nondisparagement agreement or other document seeking to deny the employee the right to disclose information about unlawful acts in the workplace, including, but not limited to, harassment.

Likewise, separation agreements cannot include any provision that prohibits the disclosure of information about unlawful acts in the workplace, including but not limited to, harassment. This law does not apply to a negotiated settlement agreement to resolve an employee’s claim in court, before an administrative agency, in an alternative dispute resolution forum, or through an employer’s internal complaint process. *Cal. Gov’t Code § 12964.5.*

A settlement agreement provision may not prevent (or restrict, for agreements entered after January 1, 2022) disclosure of facts relating to a civil or administrative claim involving workplace harassment or discrimination based on sex, failure to prevent workplace harassment or discrimination based on sex, or retaliation for reporting (or opposing, for agreements entered after January 1, 2022) harassment or discrimination based on sex under *Cal. Gov’t Code § 12940 (h), (i), (j), and (k); Cal Civ. Proc. Code § 1001.*

Any settlement agreement of an employment dispute may not contain a provision prohibiting, preventing, or otherwise restricting a settling party that is an aggrieved person from obtaining future employment with the employer or any parent company, subsidiary, division, affiliate, or contractor of the employer. *Cal. Civ. Proc. Code § 1002.5.*

Arbitration Limited-A person shall not, as a condition of employment, continued employment, or the receipt of any employment-related benefit, require any applicant for employment or any employee to waive any right, forum, or procedure for a violation of any provision of the FEHA or the California Labor Code, including the right to file and pursue a civil action or a complaint with, or otherwise notify, any state enforcement agency, other public prosecutor, law enforcement agency, or any court or other governmental entity of any alleged violation. *Cal. Labor Code § 432.6.*

– COLORADO –

Is there a state law that prohibits sexual harassment in the workplace? Yes. *Colo. Rev. Stat. § 24-34-402(1)(a).*

Does the state law define sexual harassment? Yes. *Colo. Rev. Stat. § 24-34-402(1)(a).*

What employers does the state law cover? The state or any political subdivision, commission, department, institution, or school district thereof, and every other person employing persons. *Colo. Rev. Stat. § 24-34-401.*

What employees does the state law cover? Any person employed by an employer. *Colo. Rev. Stat. § 24-34-401.*

<p>Does the state law provide for personal liability against a company leader/supervisor or just organizational liability? Unclear. Depends on how courts have interpreted employer portion of definition “person.” <i>Colo. Rev. Stat. § 24-34-401.</i></p>
<p>Are there general exceptions? Employee does not include a person in the domestic service of any person. <i>Colo. Rev. Stat. § 24-34-401.</i></p> <p>Employer does not include any religious organization or association, except for any religious organization or association that is supported in whole or in part by money raised by taxation or public borrowing. <i>Colo. Rev. Stat. § 24-34-402.</i></p>
<p>Is there an anti-retaliation provision in the state law? Unclear. Depends on how the courts have interpreted employer definition of “person” and “agent.” <i>Colo. Rev. Stat. § 378-1.</i></p>
<p>What is the state enforcement agency? Colorado Civil Rights Division.</p>
<p>Does the state law give the employee an immediate private right of action in court? No. Unless claimant shows ill health of such a nature that pursuing administrative remedies would not provide timely and reasonable relief and would cause irreparable harm. <i>Colo. Rev. Stat. § 24-34-306(14).</i></p>
<p>What is the state law's statute of limitations? Six months. <i>Colo. Rev. Stat. § 24-34-403.</i></p>
<p>Are the following types of damages and remedies available in the state law?</p> <ol style="list-style-type: none"> 1. Equitable: Yes. <i>Colo. Rev. Stat. § 24-34-405(2).</i> 2. Compensatory: Yes. <i>Colo. Rev. Stat. § 24-34-405(3).</i> 3. Punitive: Yes*. <i>Colo. Rev. Stat. § 24-34-405(3).</i> 4. Attorney Fees/Court Costs for Prevailing Party: Yes. <i>Colo. Rev. Stat. § 24-34-405(5).</i> <p>*Total of 2 and 3 cannot exceed \$10,000 if employer has between one and four employees. If the employer has between five and 14 employees, total of 2 and 3 cannot exceed \$25,000. <i>Colo. Rev. Stat. § 24-34-405(3)(d).</i></p>
<p>Does the state law require workplace sexual harassment training? If yes, of whom and how often? No.</p>
<p>Does the state law require employers to display notice to employees of sexual harassment protection? Yes. <i>3 Code Colo. Regs. § 708.1(20.1).</i></p>
<p>Does the state law require that employers have a written sexual harassment policy? No.</p>
<p>Other Information: Internal Complaint Required-Harassment is not illegal unless a complaint is filed with the appropriate authority at the complainant’s workplace and the authority fails to initiate a reasonable investigation of a complaint and take prompt remedial action if appropriate. <i>Colo. Rev. Stat. § 24-34-402(1)(a).</i></p>

– CONNECTICUT –

<p>Is there a state law that prohibits sexual harassment in the workplace? Yes. <i>Conn. Gen. Stat. 46a-60(b)(8).</i></p>
<p>Does the state law define sexual harassment? Yes. <i>Conn. Gen. Stat. § 46a-60(b)(8).</i></p>

<p>What employers does the state law cover? The state, all political subdivisions thereof, and any person or employer with three or more persons in such person's or employer's employ. <i>Conn. Gen. Stat. § 46a-51(10)</i>.</p>
<p>What employees does the state law cover? Any person employed by an employer. <i>Conn. Gen. Stat. § 46a-51(9)</i>. Unpaid interns are also protected under a separate state law. <i>Conn. Gen. Stat. § 31-40y</i>. For purposes of notice and policy requirements, employee includes an individual employed by such individual's parent, spouse, or child. <i>Conn. Gen. Stat. § 46a-54(15)(A)</i>.</p>
<p>Does the state law provide for personal liability against a company leader/supervisor or just organizational liability? Unclear. Depends on how courts have interpreted employer portion of definition "person." <i>Conn. Gen. Stat. § 46a-51(10)</i>.</p>
<p>Are there general exceptions? Employee does not include any individual employed by such individual's parents, spouse, or child. <i>Conn. Gen. Stat. § 46a-51(9)</i>.</p>
<p>Is there an anti-retaliation provision in the state law? Yes. <i>Conn. Gen. Stat. § 46a-60(b)(4)</i>.</p>
<p>What is the state enforcement agency? Connecticut Commission on Human Rights and Opportunities.</p>
<p>Does the state law give the employee an immediate private right of action in court? No.</p>
<p>What is the state law's statute of limitations? 300 days. <i>Conn. Gen. Stat. § 46a-82(f)</i>.</p>
<p>Are the following types of damages and remedies available in the state law?</p> <ol style="list-style-type: none"> 1. Equitable: Yes. <i>Conn. Gen. Stat. § 46a-86(b)</i>. 2. Compensatory: Not mentioned. 3. Punitive: Yes. <i>Conn. Gen. Stat. § 46a-104</i>. 4. Attorney Fees/Court Costs for Prevailing Party: Yes. <i>Conn. Gen. Stat. §§ 46a-86(b) & -104</i>.
<p>Does the state law require workplace sexual harassment training? If yes, of whom and how often? Yes. By employers with three or more employees; two hours of training to all employees including supervisory employees within six months of hire; training then required not less than every 10 years. By employers with less than three employees; two hours of training to all supervisory employees within six months of assuming supervisory position; training then required not less than every 10 years. (For purposes of this requirement, employee includes "employee" means any individual employed by an employer, including an individual employed by such individual's parent, spouse or child.) <i>Conn. Gen. Stat. § 46a-54(15)(C)</i>.</p>
<p>Does the state law require employers to display notice to employees of sexual harassment protection? Yes. <i>Conn. Gen. Stat. § 46a-54(15)(A)</i>.</p>
<p>Does the state law require that employers have a written sexual harassment policy? Yes. <i>Conn. Gen. Stat. § 46a-54(15)(B)</i>.</p>
<p>Other Information</p>

- DELAWARE -

<p>Is there a state law that prohibits sexual harassment in the workplace? Yes. <i>19 Del. C. § 711A.</i></p>
<p>Does the state law define sexual harassment? Yes. <i>19 Del. C. § 711A(c).</i></p>
<p>What employers does the state law cover? Any person employing four or more employees within the state at the time of the alleged violation, including the state or any political subdivision or board, department, commission, or school district thereof. <i>19 Del. C. § 711A(b).</i></p>
<p>What employees does the state law cover? An individual employed by an employer; includes state employees, unpaid interns, applicants, joint employees, and apprentices. <i>19 Del. C. § 711A(b).</i></p>
<p>Does the state law provide for personal liability against a company leader/supervisor or just organizational liability? Unclear. Depends on how courts have interpreted employer portion of definition “person.” <i>19 Del. C. § 711A(b).</i></p>
<p>Are there general exceptions? No.</p>
<p>Is there an anti-retaliation provision in the state law? Yes. <i>19 Del. C. § 711(f).</i></p>
<p>What is the state enforcement agency? Delaware Department of Labor, Office of Anti-Discrimination.</p>
<p>Does the state law give the employee an immediate private right of action in court? No.</p>
<p>What is the state law's statute of limitations? 300 days. <i>19 Del. C. § 712(c)(1).</i></p>
<p>Are the following types of damages and remedies available in the state law? 1. Equitable: Yes. https://labor.delaware.gov/divisions/industrial-affairs/discrimination/procedures 2. Compensatory: Yes*. <i>19 Del. C. § 715.</i> 3. Punitive: Yes. <i>19 Del. C. § 715.</i> 4. Attorney Fees/Court Costs for Prevailing Party: Yes. <i>19 Del. C. § 715.</i></p> <p>*2 and 3 cannot exceed federal damages caps (see damages/remedies information in “Federal Law” above); employers with four-14 employees are treated as employers having under 50 for purposes of damages awards.</p>
<p>Does the state law require workplace sexual harassment training? If yes, of whom and how often? Yes. By employers with 50 or more employees; of employees within one year of employment and every two years thereafter; additional training of supervisors under same timeline. <i>19 Del. C. § 711A(g).</i></p>
<p>Does the state law require employers to display notice to employees of sexual harassment protection? Yes. <i>19 Del. C. § 711A(f).</i></p>
<p>Does the state law require that employers have a written sexual harassment policy? No.</p>
<p>Other Information</p>

- FLORIDA -

<p>Is there a state law that prohibits sexual harassment in the workplace? No. State law does not explicitly mention/prohibit sexual harassment. State law prohibits discrimination based on sex. <i>Fla. Stat. § 760.10.</i></p>
<p>Does the state law define sexual harassment? No.</p>
<p>What employers does the state law cover? Any person employing 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year, and any agent of such a person. <i>Fla. Stat. § 760.02(7).</i></p>
<p>What employees does the state law cover? Not mentioned.</p>
<p>Does the state law provide for personal liability against a company leader/supervisor or just organizational liability? Unclear. Depends on how courts have interpreted employer portion of definition “person” and “agent of such a person.” <i>Fla. Stat. § 760.02(7).</i></p>
<p>Are there general exceptions? No.</p>
<p>Is there an anti-retaliation provision in the state law? Yes. <i>Fla. Stat. § 760.10(7).</i></p>
<p>What is the state enforcement agency? Florida Commission on Human Relations.</p>
<p>Does the state law give the employee an immediate private right of action in court? No.</p>
<p>What is the state law's statute of limitations? 365 days. <i>Fla. Stat. § 760.11(1).</i></p>
<p>Are the following types of damages and remedies available in the state law? 1. Equitable: Yes. 2. Compensatory: Yes. 3. Punitive: Yes*. 4. Attorney Fees/Court Costs for Prevailing Party: Yes. <i>Fla. Stat. § 760.11(5).</i> *Capped at \$100,000.</p>
<p>Does the state law require workplace sexual harassment training? If yes, of whom and how often? No.</p>
<p>Does the state law require employers to display notice to employees of sexual harassment protection? No. Required poster only mentions discrimination on the basis of sex, not sexual harassment.</p>
<p>Does the state law require that employers have a written sexual harassment policy? No.</p>
<p>Other Information</p>

- GEORGIA -

Is there a state law that prohibits sexual harassment in the workplace? No.
Does the state law define sexual harassment? N/A
What employers does the state law cover? N/A
What employees does the state law cover? N/A
Does the state law provide for personal liability against a company leader/supervisor or just organizational liability? N/A
Are there general exceptions? N/A
Is there an anti-retaliation provision in the state law? N/A
What is the state enforcement agency? N/A
Does the state law give the employee an immediate private right of action in court? N/A
What is the state law's statute of limitations? N/A
Are the following types of damages and remedies available in the state law? 1. Equitable: N/A 2. Compensatory: N/A 3. Punitive: N/A 4. Attorney Fees/Court Costs for Prevailing Party: N/A
Does the state law require workplace sexual harassment training? If yes, of whom and how often? N/A
Does the state law require employers to display notice to employees of sexual harassment protection? N/A
Does the state law require that employers have a written sexual harassment policy? N/A
Other Information

- HAWAII -

Is there a state law that prohibits sexual harassment in the workplace? No. State law does not explicitly mention/prohibit sexual harassment. State law prohibits discrimination based on sex. <i>Haw. Rev. Stat. § 378-2</i> . However, state enforcement agency regulations provide that sexual harassment is a violation state employment antidiscrimination law. <i>HAR § 12-46-109(a)</i> .
Does the state law define sexual harassment? No. However, state enforcement agency regulations provide a definition. <i>HAR § 12-46-109(a)</i> .

<p>What employers does the state law cover? Any person, including the state or any of its political subdivisions and any agent of such person, having one or more employees. <i>Haw. Rev. Stat. § 378-1.</i></p>
<p>What employees does the state law cover? Not mentioned. However, “employment” means any service performed by an individual for another person under any contract of hire, express or implied, oral, or written, whether lawfully or unlawfully entered into. <i>Haw. Rev. Stat. § 378-1.</i></p>
<p>Does the state law provide for personal liability against a company leader/supervisor or just organizational liability? Unclear. Depends on how courts have interpreted employer portion of definition “person” and “agent of such person.” <i>Haw. Rev. Stat. § 378-1.</i> State enforcement agency poster says “Supervisors, managers, or agents can also be liable as individuals if they commit acts of sexual harassment.” http://labor.hawaii.gov/hcrc/files/2013/01/INFOsh-1.pdf</p>
<p>Are there general exceptions? Employment does not include services by an individual employed as a domestic in the home of any person, except as provided in section 378-2(a)(9). <i>Haw. Rev. Stat. § 378-1.</i></p>
<p>Is there an anti-retaliation provision in the state law? Yes. <i>Haw. Rev. Stat. § 378-2(b).</i></p>
<p>What is the state enforcement agency? Hawaii Civil Rights Commission.</p>
<p>Does the state law give the employee an immediate private right of action in court? Yes <i>Haw. Rev. Stat. § 378-3</i>; https://labor.hawaii.gov/hcrc/files/2021/02/Hawaii-Civil-Rights-Commission-Laws-Protecting-your-Rights-2019.pdf</p>
<p>What is the state law's statute of limitations? 180 days for state enforcement agency claim. <i>Haw. Rev. Stat. § 368-11(c).</i> Two years for private court action. https://labor.hawaii.gov/hcrc/files/2021/02/Hawaii-Civil-Rights-Commission-Laws-Protecting-your-Rights-2019.pdf</p>
<p>Are the following types of damages and remedies available in the state law?</p> <ol style="list-style-type: none"> 1. Equitable: Yes. 2. Compensatory: Yes. 3. Punitive: Yes. 4. Attorney Fees/Court Costs for Prevailing Party: Yes. <i>Haw. Rev. Stat. § 368-17.</i>
<p>Does the state law require workplace sexual harassment training? If yes, of whom and how often? No.</p>
<p>Does the state law require employers to display notice to employees of sexual harassment protection? Yes. https://labor.hawaii.gov/labor-law-poster/</p>
<p>Does the state law require that employers have a written sexual harassment policy? No.</p>
<p>Other Information: Agreements-Employers cannot require employees to enter into, as a condition of employment, a nondisclosure agreement that prevents the employee from disclosing or discussing sexual harassment or sexual assault occurring in the workplace, at work-related events, between employees, or between an employer and an employee. Additionally, employers cannot retaliate against employees for disclosing or discussing sexual harassment or sexual assault. <i>Haw. Rev. Stat. § 378-2.2.</i></p>

<p>Is there a state law that prohibits sexual harassment in the workplace? No. State law does not explicitly mention/prohibit sexual harassment. State law prohibits discrimination based on sex. <i>Idaho Code Ann. § 67-5909</i>. However, sexual harassment appears to be encompassed within prohibited discrimination based on state enforcement agency website. https://humanrights.idaho.gov/Idaho-Law/Overview</p>
<p>Does the state law define sexual harassment? No. However, state enforcement agency website provides a definition. https://humanrights.idaho.gov/Idaho-Law/Types-of-Discrimination/Sex/</p>
<p>What employers does the state law cover? A person, wherever situated, who hires five or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year whose services are to be partially or wholly performed in the state. The term also means: (a) A person who as contractor or subcontractor is furnishing material or performing work for the state; (b) Any agency of or any governmental entity within the state; and (c) Any agent of such employer. <i>Idaho Code Ann. § 67-5902(6)</i>.</p>
<p>What employees does the state law cover? Not defined, except by exception-see exceptions.</p>
<p>Does the state law provide for personal liability against a company leader/supervisor or just organizational liability? Unclear. Depends on how courts have interpreted employer portion of definition “person” and “agent of such employer.” <i>Idaho Code Ann. § 67-5902(6)</i>.</p>
<p>Are there general exceptions? Employee does not include domestic servants hired to work in and about the person’s household. <i>Idaho Code Ann. § 67-5902(6)</i>.</p>
<p>Is there an anti-retaliation provision in the state law? Yes. <i>Idaho Code Ann. § 67-5911</i>.</p>
<p>What is the state enforcement agency? Idaho Commission on Human Rights.</p>
<p>Does the state law give the employee an immediate private right of action in court? No.</p>
<p>What is the state law's statute of limitations? One year. <i>Idaho Code Ann. § 67-5907(1)</i>.</p>
<p>Are the following types of damages and remedies available in the state law? 1. Equitable: Yes. 2. Compensatory: Not mentioned. 3. Punitive: Yes*. 4. Attorney Fees/Court Costs for Prevailing Party: Not mentioned. <i>Idaho Code Ann. § 67-5908</i>. *Capped at \$1,000 per willful violation.</p>
<p>Does the state law require workplace sexual harassment training? If yes, of whom and how often? No.</p>
<p>Does the state law require employers to display notice to employees of sexual harassment protection? No. Required poster only mentions discrimination on the basis of sex, not sexual harassment.</p>

Does the state law require that employers have a written sexual harassment policy? No.

Other Information

– ILLINOIS –

Is there a state law that prohibits sexual harassment in the workplace? Yes. 775 ILCS 5/2-102(D).

Does the state law define sexual harassment? Yes. 775 ILCS 5/2-101(E).

What employers does the state law cover? Any person employing one or more employees; the state and any political subdivision, municipal corporation or other governmental unit or agency, without regard to the number of employees; any party to a public contract without regard to the number of employees; and a joint apprenticeship or training committee without regard to the number of employees 775 ILCS 5/2-101(B). State law also provides that it is a civil rights violation for any employer, employee, agent of any employer, employment agency or labor organization to engage in sexual harassment. 775 ILCS 5/2-102(D).

What employees does the state law cover? Any individual performing services for remuneration within the state for an employer, an apprentice, an applicant for any apprenticeship, and an unpaid intern. 775 ILCS 5/2-101(A).

Does the state law provide for personal liability against a company leader/supervisor or just organizational liability? Unclear. Depends on how courts have interpreted employer portion of definition “person” under 775 ILCS 5/2-101(B) and “employee” and “agent of any employer” under 775 ILCS 5/2-102(D).

Are there general exceptions? No.

Is there an anti-retaliation provision in the state law? Yes. 775 ILCS 5/6-101.

What is the state enforcement agency? Illinois Department of Human Rights.

Does the state law give the employee an immediate private right of action in court? No.

What is the state law's statute of limitations? 300 days. 775 ILCS 5/7A-102(A).

Are the following types of damages and remedies available in the state law?

1. **Equitable:** Yes.

2. **Compensatory:** Yes*.

3. **Punitive:** Not mentioned.

4. **Attorney Fees/Court Costs for Prevailing Party:** Yes. 775 ILCS 5/8A-104.

*Called “actual damages.”

Does the state law require workplace sexual harassment training? If yes, of whom and how often? Yes. Of all employees at least once per year. 775 ILCS 5/2-109. Additionally, owners of restaurants and bars must provide industry-specific sexual harassment training annually to all employees, available in both English and Spanish. 775 ILCS 5/2-110.

Does the state law require employers to display notice to employees of sexual harassment protection? Yes. *775 ILCS 5/2-102(K)*.

Does the state law require that employers have a written sexual harassment policy? No. Except bars and restaurants. *775 ILCS 5/2-110*. Except public contractors & bidders. *775 ILCS 5/2-105*. Except state agencies. *775 ILCS 5/2-105*.

Other Information: Agreements-An employment contract, agreement, clause, covenant, waiver, or other document may not prohibit, prevent, or otherwise restrict an employee, prospective employee, or former employee from reporting any allegations of unlawful conduct to federal, state, or local officials for investigation, including, but not limited to, alleged criminal conduct or unlawful employment practices under federal or Illinois law. (Exceptions if such agreements, etc. are mutually negotiated and meet other terms of statute.) *820 ILCS 96/1-20*. An employer may not unilaterally include any clause in a settlement or termination agreement that prohibits the employee, prospective employee, or former employee from making truthful statements or disclosures regarding unlawful employment practices under federal or Illinois law. (Exceptions-if confidentiality is preference of employee and employer notifies employee of specifics listed in law.) *820 ILCS 96/1-30*.

Arbitration limited-An employer may not enter into any agreement, clause, covenant, or waiver that is a unilateral condition of employment or continued employment and requires the employee or prospective employee to waive, arbitrate, or otherwise diminish any existing or future claim, right, or benefit related to an unlawful employment practice to which the employee or prospective employee would otherwise be entitled under state or federal law. (Exceptions if such agreements, etc. are mutually negotiated and meet other terms of statute.) *820 ILCS 96/1-25(b)*.

Others protected-State law also protects non-employees from sexual harassment. An employer is responsible for sexual harassment of non-employees by the employer's nonmanagerial and nonsupervisory employees only if the employer becomes aware of the conduct and fails to take reasonable measures. Non-employees include: Independent contractors; Consultants; Individuals who are not employees and directly perform services for the employer under a contract. *775 ILCS 5/2-102(A-10), (D-5)*.

Required disclosures-Employer must disclose to state enforcement agency: -by July 1, adverse judgments or administrative rulings involving sexual harassment or unlawful discrimination made during the preceding calendar year; and -on request during the investigation of a charge, settlements involving sexual harassment or unlawful discrimination entered into during the preceding five years. *775 ILCS 5/2-108(B), (C)*.

– INDIANA –

Is there a state law that prohibits sexual harassment in the workplace? No. State law does not explicitly mention/prohibit sexual harassment. State law prohibits discrimination based on sex. *Ind. Code Ann. § 22-9-1-2*. However, gender harassment appears to be an unlawful employment practice based on state enforcement agency website.

https://www.in.gov/icrc/files/Workplace_Harassment_New.pdf

Does the state law define sexual harassment? No. However, state enforcement agency website provides a definition. https://www.in.gov/icrc/files/Workplace_Harassment_New.pdf

What employers does the state law cover? The state or any political or civil subdivision thereof and any person employing six or more persons within the state. *Ind. Code Ann. § 22-9-1-3(h)*.

What employees does the state law cover? Any person employed by another for wages or salary. *Ind. Code Ann. § 22-9-1-3(i)*.

<p>Does the state law provide for personal liability against a company leader/supervisor or just organizational liability? Unclear. Depends on how courts have interpreted employer portion of definition “person.” <i>Ind. Code Ann. § 22-9-1-3(h)</i>.</p>
<p>Are there general exceptions? Employee does not include any individual employed by the individual’s parents, spouse, or child, or in the domestic service of any person. <i>Ind. Code Ann. § 22-9-1-3(i)</i>.</p> <p>Employer does not include any nonprofit corporation or association organized exclusively for fraternal or religious purposes, any school, educational, or charitable religious institution owned or conducted by or affiliated with a church or religious institution, or any exclusively social club, corporation, or association that is not organized for profit. <i>Ind. Code Ann. § 22-9-1-3(h)</i>.</p>
<p>Is there an anti-retaliation provision in the state law? Yes. <i>Ind. Code § 22-9-1-6(g)</i>.</p>
<p>What is the state enforcement agency? Indiana Civil Rights Commission.</p>
<p>Does the state law give the employee an immediate private right of action in court? No.</p>
<p>What is the state law's statute of limitations? 180 days. <i>Ind. Code § 22-9-1-3(p)</i>.</p>
<p>Are the following types of damages and remedies available in the state law?</p> <ol style="list-style-type: none"> 1. Equitable: Yes. <i>Ind. Code § 22-9-1-6(j)</i>. 2. Compensatory: Yes. https://www.in.gov/icrc/newsroom/icrc-issues-several-employment-discrimination-charges/. 3. Punitive: Not mentioned. 4. Attorney Fees/Court Costs for Prevailing Party: Not mentioned.
<p>Does the state law require workplace sexual harassment training? If yes, of whom and how often? No.</p>
<p>Does the state law require employers to display notice to employees of sexual harassment protection? Yes. <i>Ind. Code § 22-9-5-25</i>.</p>
<p>Does the state law require that employers have a written sexual harassment policy? No.</p>
<p>Other Information</p>

– IOWA –

<p>Is there a state law that prohibits sexual harassment in the workplace? No. State law does not explicitly mention/prohibit sexual harassment. State law prohibits discrimination based on sex. <i>Iowa Code § 216.6</i>. However, sexual harassment appears to be encompassed within prohibited discrimination based on state enforcement agency publication. https://icrc.iowa.gov/sites/default/files/publications/2018/WorkplaceHarassment_May18.pdf</p>
<p>Does the state law define sexual harassment? No.</p>
<p>What employers does the state law cover? The state or any political subdivision, board, commission, department, institution, or school district thereof, and every other person employing employees within the state. <i>Iowa Code § 216.2(7)</i>.</p>

<p>What employees does the state law cover? Any person employed by an employer. <i>Iowa Code § 216.2(6).</i></p>
<p>Does the state law provide for personal liability against a company leader/supervisor or just organizational liability? Unclear. Depends on how courts have interpreted employer portion of definition “person.” <i>Iowa Code § 216.2(7).</i> State enforcement agency says where harassment is committed by a supervisor or manager, the harasser may be individually liable, as well as the employer. https://icrc.iowa.gov/sites/default/files/publications/2018/WorkplaceHarassment_May18.pdf</p>
<p>Are there general exceptions? The state employment antidiscrimination law does not apply to: -any employer who regularly employs less than four individuals. (Individuals who are members of the employer’s family shall not be counted as employees.) -the employment of individuals for work within the home of the employer if the employer or members of the employer’s family reside therein during such employment. -the employment of individuals to render personal service to the person of the employer. <i>Iowa Code § 216.6(6).</i></p>
<p>Is there an anti-retaliation provision in the state law? Yes. <i>Iowa Code § 216.11.</i></p>
<p>What is the state enforcement agency? Iowa Civil Rights Commission.</p>
<p>Does the state law give the employee an immediate private right of action in court? No.</p>
<p>What is the state law's statute of limitations? 300 days. <i>Iowa Code §216.15(13).</i></p>
<p>Are the following types of damages and remedies available in the state law? 1. Equitable: Yes. 2. Compensatory: Yes. 3. Punitive: Not mentioned. 4. Attorney Fees/Court Costs for Prevailing Party: Yes. <i>Iowa Code § 216.15.</i></p>
<p>Does the state law require workplace sexual harassment training? If yes, of whom and how often? No. Except of executive branch employees; law does not mention how often. https://das.iowa.gov/sites/default/files/hr/documents/MS_manual/Policy-SexualHarassment.pdf</p>
<p>Does the state law require employers to display notice to employees of sexual harassment protection? No. Required poster only mentions discrimination on the basis of sex, not sexual harassment.</p>
<p>Does the state law require that employers have a written sexual harassment policy? No.</p>
<p>Other Information</p>

- KANSAS -

<p>Is there a state law that prohibits sexual harassment in the workplace? No. State law does not explicitly mention/prohibit sexual harassment. State law prohibits discrimination based on sex. <i>Kan. Stat. Ann. § 44-1009.</i> However, sexual harassment appears to be encompassed within</p>
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<p>prohibited discrimination based on state enforcement agency complaint intake form. https://www.surveymonkey.com/r/IntakeQuestionnaire-11-2016</p>
<p>Does the state law define sexual harassment? No.</p>
<p>What employers does the state law cover? Any person in the state employing four or more persons and any person acting directly or indirectly for an employer, labor organizations, nonsectarian corporations, organizations engaged in social service work, the state, and all political and municipal subdivisions thereof. <i>Kan. Stat. Ann. § 44-1002(b)</i>.</p>
<p>What employees does the state law cover? Not defined, except by exception-see exceptions.</p>
<p>Does the state law provide for personal liability against a company leader/supervisor or just organizational liability? Unclear. Depends on how courts have interpreted employer portion of definition “person” and “any person acting directly or indirectly for an employer.” <i>Kan. Stat. Ann. § 44-1002(b)</i>.</p>
<p>Are there general exceptions? Employee does not include any individual employed by such individual’s parents, spouse, or child, or in the domestic service of any person. <i>Kan. Stat. Ann. § 44-1002(c)</i>.</p> <p>Employer does not include a nonprofit fraternal or social association or corporation. <i>Kan. Stat. Ann. § 44-1002(b)</i>.</p>
<p>Is there an anti-retaliation provision in the state law? Yes. <i>Kan. Stat. Ann. § 44-1009(4)</i>.</p>
<p>What is the state enforcement agency? Kansas Human Rights Commission.</p>
<p>Does the state law give the employee an immediate private right of action in court? No.</p>
<p>What is the state law's statute of limitations? Six months. <i>Kan. Stat. Ann. § 44-1005(i)</i>.</p>
<p>Are the following types of damages and remedies available in the state law?</p> <ol style="list-style-type: none"> 1. Equitable: Yes. 2. Compensatory: Yes*. 3. Punitive: Not mentioned. 4. Attorney Fees/Court Costs for Prevailing Party: Not mentioned. <i>Kan. Stat. Ann. § 44-1005(k)</i>. <p>*Capped at \$2000.</p>
<p>Does the state law require workplace sexual harassment training? If yes, of whom and how often? No. Except of state staff, employees, and interns annually. <i>Kan. Exec. Order No. 18-04 (Feb. 5, 2018)</i>. https://kslib.info/DocumentCenter/View/6874/EO-18-04</p>
<p>Does the state law require employers to display notice to employees of sexual harassment protection? Yes. <i>Kan. Stat. Ann. § 44-1012; Kan. Exec. Order No. 18-04 (Feb. 5, 2018) (for state employees, interns, and contractors)</i>. https://kslib.info/DocumentCenter/View/6874/EO-18-04</p>

Does the state law require that employers have a written sexual harassment policy? No. Except for state employers. *Kan. Exec. Order No. 18-04 (Feb. 5, 2018).*
<https://kslib.info/DocumentCenter/View/6874/EO-18-04>

Other Information

– KENTUCKY –

Is there a state law that prohibits sexual harassment in the workplace? No. State law does not explicitly mention/prohibit sexual harassment. State law prohibits discrimination based on sex. *KRS § 344.040*. However, sexual harassment appears to be encompassed within prohibited discrimination based on state enforcement agency adoption of federal EEOC regulations providing that harassment on the basis of sex is prohibited. *104 KAR § 1:050(2)*.

Does the state law define sexual harassment? No. However, state enforcement agency has adopted federal EEOC regulations, which provide a definition. *104 KAR § 1:050(2)*.

What employers does the state law cover? A person who has eight or more employees within the state in each of 20 or more calendar weeks in the current or preceding calendar year and an agent of such a person. *KRS § 344.030(2)*.

What employees does the state law cover? An individual employed by an employer. *KRS § 344.030(5)*.

Does the state law provide for personal liability against a company leader/supervisor or just organizational liability? Unclear. Depends on how courts have interpreted employer portion of definition “person” and “agent of such a person.” *KRS § 344.030(2)*.

Are there general exceptions? Employee does not include an individual employed by his parents, spouse, or child, or an individual employed to render services as a domestic in the home of the employer. *KRS § 344.030(5)*.

Employer does not include the United States, a corporation wholly owned by the government of the United States, an Indian tribe, or a bona fide private membership club (other than a labor organization) that is exempt from taxation under Section 501(c) of the Internal Revenue Service Code of 1986. *KRS § 344.030(2)*.

Is there an anti-retaliation provision in the state law? Yes. *KRS § 344.280*.

What is the state enforcement agency? Kentucky Commission on Human Rights.

Does the state law give the employee an immediate private right of action in court? Yes. *KRS § 344.450*.

What is the state law's statute of limitations? 180 days for state enforcement agency claim. *KRS § 344.200(1)*. Five years for private court action. *KRS § 413.120(2)*.

Are the following types of damages and remedies available in the state law?

1. Equitable: Yes. *KRS § 344.230(3)*.

2. Compensatory: Yes. *KRS § 344.230(3)*.

3. Punitive: Not mentioned.

4. Attorney Fees/Court Costs for Prevailing Party: Yes. *KRS § 344.450*.

Does the state law require workplace sexual harassment training? If yes, of whom and how often? No.
Does the state law require employers to display notice to employees of sexual harassment protection? No. Required poster only mentions discrimination on the basis of sex, not sexual harassment.
Does the state law require that employers have a written sexual harassment policy? No.
Other Information

- LOUISIANA -

Is there a state law that prohibits sexual harassment in the workplace? No. State law does not explicitly mention/prohibit sexual harassment. State law prohibits discrimination based on sex. <i>La. R.S. 23:332.</i>
Does the state law define sexual harassment? No.
What employers does the state law cover? A person, association, legal or commercial entity, the state, or any state agency, board, commission, or political subdivision of the state receiving services from an employee and, in return, giving compensation of any kind to an employee. The state employment antidiscrimination law applies only to an employer who employs 20 or more employees within the state for each working day in each of 20 or more calendar weeks in the current or preceding calendar year. Employer also includes an insurer, as defined in <i>La. R.S. 22:46</i> , with respect to appointment of agents, regardless of the character of the agent's employment. <i>La. R.S. 23:302(2).</i>
What employees does the state law cover? An individual employed by an employer. <i>La. R.S. 23:302(1).</i>
Does the state law provide for personal liability against a company leader/supervisor or just organizational liability? Unclear. Depends on how courts have interpreted employer portion of definition "person." <i>La. R.S. 23:302(2).</i>
Are there general exceptions? Employee does not include employment of individual by parent, spouse, or child, or those employed in domestic services. <i>La. R.S. 23:302(1).</i>
Is there an anti-retaliation provision in the state law? Yes. <i>La. R.S. 23:96;</i> <i>La. R.S. 23:96;</i> <i>La. R.S. 51:2256.</i>
What is the state enforcement agency? Louisiana Commission on Human Rights.
Does the state law give the employee an immediate private right of action in court? Yes. <i>La. R.S. 23:303.</i>
What is the state law's statute of limitations? 180 days for state enforcement agency claim. <i>La. R.S. 51-2257(A).</i> One year for private court action. <i>La. R.S. 23:303.</i>
Are the following types of damages and remedies available in the state law? 1. Equitable: Yes. 2. Compensatory: Yes.

3. Punitive: Not mentioned.

4. Attorney Fees/Court Costs for Prevailing Party: Yes. *La. R.S. § 23:303.*

Does the state law require workplace sexual harassment training? If yes, of whom and how often? No. Except of public servants; one hour of training every year; additional training required of public agency supervisors and persons in public agencies designated to accept or investigate sexual harassment complaints. *La. R.S. § 42:343.*

Does the state law require employers to display notice to employees of sexual harassment protection? No. Except for state agencies. *La. R.S. § 42:343.*

Does the state law require that employers have a written sexual harassment policy? No. Except for state agencies. *La. R.S. § 42:342.*

Other Information: Agreements-Settlement agreement of a claim against the state, a state agency, a political subdivision, or any employee or officer of the state, a state agency, or a political subdivision may not contain a provision prohibiting a claimant from disclosing the terms of or facts associated with the underlying claim of the settlement agreement where the underlying claim is based on an allegation of sexual harassment or sexual assault of the claimant and public funds are paid, in whole or in part, as satisfaction of the terms of the settlement agreement. *La. R.S. § 13:5109.1.*

– MAINE –

Is there a state law that prohibits sexual harassment in the workplace? Yes. *Me. Rev. Stat. tit. 5, §§ 4572& 4553(2).*

Does the state law define sexual harassment? No. However, state enforcement agency regulations provide a definition. *94-348-3 Me. Code R. § 10.*

What employers does the state law cover? Any person in the state employing any number of employees, whatever the place of employment of the employees, and any person outside the state employing any number of employees whose usual place of employment is in the state; any person acting in the interest of any employer, directly or indirectly, such that the person’s actions are considered the actions of the employer for purposes of liability; and labor organizations, whether or not organized on a religious, fraternal, or sectarian basis, with respect to their employment of employees. *Me. Rev. Stat. tit. 5, § 4553(4).* For purposes of required sexual harassment policy, “employer” means any person, partnership, firm, association, corporation, employment agency, labor organization, joint apprenticeship committee, or other legal entity, public or private, that is located or doing business in the state. Employer includes, but is not limited to any person, partnership, firm, association, or corporation acting in the interest of any employer, directly or indirectly, and the state in its capacity as an employer. *Me. Rev. Stat. tit. 26, § 806(3).*

What employees does the state law cover? An individual employed by an employer. *Me. Rev. Stat. tit. 5, § 4553.* For purposes of required sexual harassment policy, “employee” means any person engaged to work on a steady or regular basis, whether full-time or part-time, by an employer located or doing business in the state. *Me. Rev. Stat. tit. 26, § 806(2).*

Does the state law provide for personal liability against a company leader/supervisor or just organizational liability? Unclear. Depends on how courts have interpreted employer portion of definition “person” and “any person acting in the interest of any employer.” *Me. Rev. Stat. tit. 5, § 4553(4).*

<p>Are there general exceptions? Employee does not include any individual employed by that individual's parents, spouse, or child. <i>Me. Rev. Stat. tit. 5, § 4553.</i></p>
<p>Is there an anti-retaliation provision in the state law? Yes. <i>Me. Rev. Stat. tit. 5, §§ 4553(10)(D); 4572; 4633.</i></p>
<p>What is the state enforcement agency? Maine Human Rights Commission.</p>
<p>Does the state law give the employee an immediate private right of action in court? Yes. <i>Me. Rev. Stat. tit. 5, § 4621.</i> However, compensatory/punitive damages and attorney fees are not allowed in a private court action unless the employee first filed a claim with the state enforcement agency. <i>Me. Rev. Stat. tit. 5, § 4622(1).</i></p>
<p>What is the state law's statute of limitations? 300 days for state enforcement agency claim. <i>Me. Rev. Stat. tit. 5, § 4611.</i> Two years for private court action. <i>Me. Rev. Stat. tit. 5, § 4613(2)(C).</i></p>
<p>Are the following types of damages and remedies available in the state law?</p> <ol style="list-style-type: none"> 1. Equitable: Yes. <i>Me. Rev. Stat. tit. 5, § 4613(2)(B)(2).</i> 2. Compensatory: Yes#. <i>Me. Rev. Stat. tit. 5, § 4613(2)(B)(8).</i> 3. Punitive: Yes*#. <i>Me. Rev. Stat. tit. 5, § 4613(2)(B)(7) & (8).</i> 4. Attorney Fees/Court Costs for Prevailing Party: Yes. <i>Me. Rev. Stat. tit. 5, § 4614.</i> <p>*If the respondent has 14 or fewer employees, respondents may be ordered to pay "civil penal damages" not in excess of \$20,000 in the case of the first order against the respondent, not in excess of \$50,000 in the case of a second order against the respondent arising, and not in excess of \$100,000 in the case of a third or subsequent order against the respondent. <i>Me. Rev. Stat. tit. 5, § 4613(2)(B)(7).</i></p> <p>#Total of 2 and 3 cannot exceed federal damages caps (see damages/remedies information in "Federal Law" above). <i>Me. Rev. Stat. tit. 5, § 4613(2)(B)(8)(e).</i></p>
<p>Does the state law require workplace sexual harassment training? If yes, of whom and how often? Yes. By employers with 15 or more employees; of all employees within first year of employment; additional training of supervisors and managers under same timeline. <i>Me. Rev. Stat. tit. 26, § 807(3).</i></p>
<p>Does the state law require employers to display notice to employees of sexual harassment protection? Yes. <i>Me. Rev. Stat. tit. 26, § 807(1).</i></p>
<p>Does the state law require that employers have a written sexual harassment policy? Yes. <i>Me. Rev. Stat. tit. 26, § 807(2).</i></p>
<p>Other Information</p>

- MARYLAND -

<p>Is there a state law that prohibits sexual harassment in the workplace? Yes. <i>Md. Code, SG § 20-606(5).</i></p>
<p>Does the state law define sexual harassment? No. However, state law defines "harassment" to include harassment on the basis of sex. <i>Md. Code, SG § 20-601(h).</i></p>
<p>What employers does the state law cover? A person that is engaged in an industry or business and, if an employee has filed a complaint alleging harassment, has one or more employees for each</p>

working day in each of 20 or more calendar weeks in the current or preceding calendar year, and the state. <i>Md. Code, SG § 20-601(d)</i> .
What employees does the state law cover? An individual employed by an employer, or an individual working as an independent contractor for an employer. <i>Md. Code, SG § 20-601(c)</i> .
Does the state law provide for personal liability against a company leader/supervisor or just organizational liability? Unclear. Depends on how courts have interpreted employer portion of definition “person.” <i>Md. Code, SG § 20-601(d)</i> .
Are there general exceptions? Employee does not include an individual elected to public office, an appointee on the policy making level, or an immediate adviser with respect to the exercise of the constitutional or legal powers of an elected office, unless the individual is subject to the state or local civil service laws. <i>Md. Code, SG § 20-601(c)</i> . Except for a labor organization, employer does not include a bona fide private membership club that is exempt from taxation under § 501(c) of the Internal Revenue Code. <i>Md. Code, SG § 20-601(d)</i> . The state employment antidiscrimination law does not apply to an employer with respect to the employment of aliens outside of the state. <i>Md. Code, SG § 20-604(1)</i> .
Is there an anti-retaliation provision in the state law? Yes. <i>Md. Code, SG § 20-606(f)</i> .
What is the state enforcement agency? Maryland Commission on Civil Rights.
Does the state law give the employee an immediate private right of action in court? No.
What is the state law's statute of limitations? Two years. <i>Md. Code, SG § 20-1004(c)(3)</i> .
Are the following types of damages and remedies available in the state law? 1. Equitable: Yes. <i>Md. Code, SG § 20-1009(b)</i> . 2. Compensatory: Yes*. <i>Md. Code, SG § 20-1009(b)</i> . 3. Punitive: Yes*. <i>Md. Code, SG § 20-1013(e)</i> . 4. Attorney Fees/Court Costs for Prevailing Party: Yes. <i>Md. Code, SG § 20-1015</i> . *Total of 2 and 3 cannot exceed federal damages caps (see damages/remedies information in “Federal Law” above). <i>Md. Code, SG § 20-1009(b)(3), Md. Code, SG § 20-1013(e)(2)</i> .
Does the state law require workplace sexual harassment training? If yes, of whom and how often? No. Except of state employees; two hours of training within six months after employee’s initial appointment and every two-year period thereafter. <i>Md. Code, Pers. & Pens. § 2-203.1(c)</i> .
Does the state law require employers to display notice to employees of sexual harassment protection? No. Required poster only mentions discrimination on the basis of sex, not sexual harassment.
Does the state law require that employers have a written sexual harassment policy? No.
Other Information: Arbitration Limited-Any employment contract, policy, or agreement that waives a substantive or procedural right or remedy to a future sexual harassment claim is prohibited. <i>Md. Code, Lab. & Empl. § 3-715</i> .

Required disclosures- In 2018, Maryland passed a law requiring: (1) employers with 50 or more employees to submit to its state government agency in 2020 and 2022 responses to a survey pertaining to sexual harassment settlements; (2) the agency to post aggregate information on its website; and (3) the agency to review a random sample of the surveys, prepare an executive summary, and submit that to the Governor, along with specific Senate and House committees. *Md. S.B. 1010 (2018)*.

- MASSACHUSETTS -

Is there a state law that prohibits sexual harassment in the workplace? Yes. *Mass. Gen. Laws ch. 151B, 4(16A); 804 Mass. Code Regs. 3.01(4)(a)(4)*.

Does the state law define sexual harassment? Yes. *Mass. Gen. Laws ch. 151B, 1(18); 804 Mass. Code Regs. 3.01(4)(a)(4)*.

What employers does the state law cover? The commonwealth and all political subdivisions, boards, departments, and commissions thereof; private employers with six or more employees; employers of domestic workers covered under various state laws. *Mass. Gen. Laws ch. 151B, 1(5)*.

What employees does the state law cover? An individual employed by an employer in a full or part time capacity. *Mass. Gen. Laws ch. 151B; 1(6), 804 Mass. Code Regs. 3.01(1)*.

Does the state law provide for personal liability against a company leader/supervisor or just organizational liability? Unclear. Depends on how the courts have interpreted “agent” in discrimination and harassment portions of law. *Mass. Gen. Laws ch. 151B, 4(1) & 4(16A)*. State enforcement agency publication indicates that individuals can be personally liable. <https://www.mass.gov/doc/mcad-guidelines-on-sexual-harassment-laws-in-employment/download>

Are there general exceptions? Employee does not include any individual employed in the domestic service of any individual, independent contractors, or any individual employed by his or her parent(s), spouse, or child. *804 Mass. Code Regs. 3.01(1)*.

Employer does not include a club exclusively social, or a fraternal association or corporation, if such club, association, or corporation is not organized for private profit. *Mass. Gen. Laws ch. 151B, 1(5)*.

Is there an anti-retaliation provision in the state law? Yes. *Mass. Gen. Laws ch. 151B, 4(4); 804 Mass. Code Regs. 3.01(4)(d)(3)*.

What is the state enforcement agency? Massachusetts Commission Against Discrimination.

Does the state law give the employee an immediate private right of action in court? No. Except for employees of employers with fewer than six employees. *Mass. Gen. Laws ch. 214, 1C*.

What is the state law's statute of limitations? 300 days. *Mass. Gen. Laws ch. 151B, 5*.

Are the following types of damages and remedies available in the state law?

1. **Equitable:** Yes. *Mass. Gen. Laws ch. 151B, 5*.
2. **Compensatory:** Yes*. *Mass. Gen. Laws ch. 151B, 9*.
3. **Punitive:** Yes#. *Mass. Gen. Laws ch. 151 B, 9*.
4. **Attorney Fees/Court Costs for Prevailing Party:** Yes. *Mass. Gen. Laws ch. 151B, 5 & 9*.

*Called “actual damages.”

#Punitive damages allowed if state court action; If the state enforcement agency finds that a respondent has engaged in unlawful practice, it may, in addition to any other action which it may take, assess a civil

<p>penalty against the respondent: -in an amount not to exceed \$10,000 if the respondent has not been adjudged to have committed any prior discriminatory practice; -in an amount not to exceed \$25,000 if the respondent has been adjudged to have committed one other discriminatory practice during the five-year period ending on the date of the filing of the complaint; and -in an amount not to exceed \$50,000 if the respondent has been adjudged to have committed two or more discriminatory practices during the seven-year period ending on the date of the filing of the complaint. <i>Mass. Gen. Laws ch. 151B, 5.</i></p>
<p>Does the state law require workplace sexual harassment training? If yes, of whom and how often? No.</p>
<p>Does the state law require employers to display notice to employees of sexual harassment protection? Yes. <i>Mass. Gen. Laws ch. 151B, 3A(b)(2) & 7.</i></p>
<p>Does the state law require that employers have a written sexual harassment policy? Yes. <i>Mass. Gen. Laws ch. 151 B, 3A(b)(1).</i></p>
<p>Other Information</p>

- MICHIGAN -

<p>Is there a state law that prohibits sexual harassment in the workplace? Yes. <i>Mich. Comp. Laws § 37.2202.</i></p>
<p>Does the state law define sexual harassment? Yes. <i>Mich. Comp. Laws § 37.2103(i).</i></p>
<p>What employers does the state law cover? A person who has one or more employees, including an agent of that person. <i>Mich. Comp. Laws § 37.2201(a).</i></p>
<p>What employees does the state law cover? Not mentioned.</p>
<p>Does the state law provide for personal liability against a company leader/supervisor or just organizational liability? Unclear. Depends on how courts have interpreted employer portion of definition “person” and “agent of that person.” <i>Mich. Comp. Laws § 37.2201(a).</i></p>
<p>Are there general exceptions? The state employment antidiscrimination law does not apply to the employment of an individual by his or her parent, spouse, or child. <i>Mich. Comp. Laws § 37.2202.</i></p>
<p>Is there an anti-retaliation provision in the state law? Yes. <i>Mich. Comp. Laws § 37.2701.</i></p>
<p>What is the state enforcement agency? Michigan Department of Human Rights.</p>
<p>Does the state law give the employee an immediate private right of action in court? Yes. <i>Mich. Comp. Laws § 37.2803.</i></p>
<p>What is the state law's statute of limitations? 180 days for state enforcement agency claim. <i>Mich. Admin. Code R 37.4(6).</i> Three years for private court action. <i>Mich. Comp. Laws § 600.5805.</i></p>
<p>Are the following types of damages and remedies available in the state law? 1. Equitable: Not mentioned*.</p>

2. Compensatory: Not mentioned*.

3. Punitive: Not mentioned*.

4. Attorney Fees/Court Costs for Prevailing Party: Not mentioned*.

*Damages & remedies allowed for a claim filed with the state enforcement agency are not mentioned in state employment antidiscrimination law or state enforcement agency regulations. For a private court action, state employment antidiscrimination law provides “A person alleging a violation of this act may bring a civil action for appropriate injunctive relief or damages, or both. ... [Damages] means damages for injury or loss caused by each violation of this act, including reasonable attorney’s fees.” *Mich. Comp. Laws § 37.2801*.

Does the state law require workplace sexual harassment training? If yes, of whom and how often? No.

Does the state law require employers to display notice to employees of sexual harassment protection? No. Required poster only mentions discrimination on the basis of sex, not sexual harassment. *Mich. Admin. Code R 37.101*.

Does the state law require that employers have a written sexual harassment policy? No.

Other Information

– MINNESOTA –

Is there a state law that prohibits sexual harassment in the workplace? Yes. *Minn. Stat. §§ 363A.03(13) & .08*.

Does the state law define sexual harassment? Yes. *Minn. Stat. § 363A.03(43)*

What employers does the state law cover? A person who has one or more employees. *Minn. Stat. § 363A.03(16)*.

What employees does the state law cover? An individual who is employed by an employer and who resides or works in the state and includes a commission salesperson, as defined in section 181.145, who resides or works in the state. *Minn. Stat. § 363A.03(15)*.

Does the state law provide for personal liability against a company leader/supervisor or just organizational liability? Unclear. Depends on how courts have interpreted employer portion of definition “person.” *Minn. Stat. § 363A.03(16)*.

Are there general exceptions? The state employment antidiscrimination law does not apply to the employment of any individual by the individual’s parent, grandparent, spouse, child, or grandchild, or in the domestic service of any person. *Minn. Stat. § 363A.20*.

Is there an anti-retaliation provision in the state law? Yes. *Minn. Stat. § 363A.15*.

What is the state enforcement agency? Minnesota Department of Human Rights.

Does the state law give the employee an immediate private right of action in court? Yes. *Minn. Stat. § 363A.33*.

What is the state law's statute of limitations? One year for both state enforcement agency claims and private court action. <i>Minn. Stat. §363A.28(3).</i>
Are the following types of damages and remedies available in the state law? 1. Equitable: Yes. <i>Minn. Stat. § 363A.29(5).</i> 2. Compensatory: Yes* (up to three times amount of damages actually sustained). <i>Minn. Stat. § 363A.29(4).</i> 3. Punitive: Yes#. <i>Minn. Stat. § 363A.29(4).</i> 4. Attorney Fees/Court Costs for Prevailing Party: Yes*. <i>Minn. Stat. § 363A.29(4).</i> *Administrative law judge/court can also order damages for mental anguish or suffering and reasonable attorney's fees in an amount not more than \$25,000. <i>Minn. Stat. § 363A.29(4).</i> #Administrative law judge/court can order payment of a civil penalty to the state. This penalty is in addition to compensatory and punitive damages to be paid to an aggrieved party. The amount shall be determined based on factors listed in the statute. <i>Minn. Stat. § 363A.29(4).</i>
Does the state law require workplace sexual harassment training? If yes, of whom and how often? No.
Does the state law require employers to display notice to employees of sexual harassment protection? No.
Does the state law require that employers have a written sexual harassment policy? No.
Other Information

- MISSISSIPPI -

Is there a state law that prohibits sexual harassment in the workplace? No.
Does the state law define sexual harassment? N/A
What employers does the state law cover? N/A
What employees does the state law cover? N/A
Does the state law provide for personal liability against a company leader/supervisor or just organizational liability? N/A
Are there general exceptions? N/A
Is there an anti-retaliation provision in the state law? N/A
What is the state enforcement agency? N/A
Does the state law give the employee an immediate private right of action in court? N/A
What is the state law's statute of limitations? N/A

<p>Are the following types of damages and remedies available in the state law?</p> <p>1. Equitable: N/A</p> <p>2. Compensatory: N/A</p> <p>3. Punitive: N/A</p> <p>4. Attorney Fees/Court Costs for Prevailing Party: N/A</p>
<p>Does the state law require workplace sexual harassment training? If yes, of whom and how often? No. Except of state employees, law does not mention how often. <i>Miss. Exec. Order No. 1392 (Jan. 9, 2017)</i>. https://www.sos.ms.gov/content/executiveorders/ExecutiveOrders/1392.pdf</p>
<p>Does the state law require employers to display notice to employees of sexual harassment protection? N/A</p>
<p>Does the state law require that employers have a written sexual harassment policy? N/A.</p>
<p>Other Information</p>

- MISSOURI -

<p>Is there a state law that prohibits sexual harassment in the workplace? No. State law does not explicitly mention/prohibit sexual harassment. State law prohibits discrimination based on sex. <i>Mo. Rev. Stat. § 213.055</i>. However, state enforcement agency regulations provide that harassment on the basis of sex is a violation of the state employment antidiscrimination law. <i>8 CSR 60-3.040(17)</i>.</p>
<p>Does the state law define sexual harassment? No. However, state enforcement agency regulations provide a definition. <i>8 CSR 60-3.040(17)</i>.</p>
<p>What employers does the state law cover? A person engaged in an industry affecting commerce who has six or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year, including the state, or any political or civil subdivision thereof, or any person employing six or more persons within the state. <i>Mo. Rev. Stat. § 213.010(8)</i>.</p>
<p>What employees does the state law cover? Not mentioned.</p>
<p>Does the state law provide for personal liability against a company leader/supervisor or just organizational liability? No. See exceptions.</p>
<p>Are there general exceptions? Employer does not include corporations and associations owned and operated by religious or sectarian groups, the United States, a corporation wholly owned by the government of the United States, an individual employed by an employer, an Indian tribe, any department or agency of the District of Columbia subject by statute to procedures of the competitive service (as defined in 5 U.S.C. Section 2101), or a bona fide private membership club, other than a labor organization, that is exempt from taxation under 26 U.S.C. Section 501(c). <i>Mo. Rev. Stat. § 213.010(8)</i>.</p>
<p>Is there an anti-retaliation provision in the state law? Yes. <i>Mo. Rev. Stat. § 213.070(2)</i>.</p>
<p>What is the state enforcement agency? Missouri Department of Labor and Industrial Relations, Commission on Civil Rights.</p>

<p>Does the state law give the employee an immediate private right of action in court? No.</p>
<p>What is the state law's statute of limitations? 180 days. <i>Mo. Rev. Stat. §213.075(1)</i>.</p>
<p>Are the following types of damages and remedies available in the state law? 1. Equitable: Likely yes because limits on 2 and 3 below mention back pay, but not explicitly mentioned. 2. Compensatory: Yes*. 3. Punitive: Yes*. 4. Attorney Fees/Court Costs for Prevailing Party: Yes. <i>Mo. Rev. Stat. § 213.111</i>.</p> <p>*Total of 2 and 3 cannot exceed: -in the case of a respondent who has more than five and fewer than 101 employees in each of 20 or more calendar weeks in the current or preceding calendar year, \$50,000; -in the case of a respondent who has more than 100 and fewer than 201 employees in each of 20 or more calendar weeks in the current or preceding calendar year, \$100,000; -in the case of a respondent who has more than 200 and fewer than 501 employees in each of 20 or more calendar weeks in the current or preceding calendar year, \$200,000; or -in the case of a respondent who has more than 500 employees in each of 20 or more calendar weeks in the current or preceding calendar year, \$500,000. <i>Mo. Rev. Stat. § 213.111(4)</i>.</p>
<p>Does the state law require workplace sexual harassment training? If yes, of whom and how often? No.</p>
<p>Does the state law require employers to display notice to employees of sexual harassment protection? Yes. <i>8 CSR 60-3.010(1)</i>.</p>
<p>Does the state law require that employers have a written sexual harassment policy? No.</p>
<p>Other Information</p>

- MONTANA -

<p>Is there a state law that prohibits sexual harassment in the workplace? No. State law does not explicitly mention/prohibit sexual harassment. State law prohibits discrimination based on sex. <i>Mont. Code Ann. § 49-2-303</i>. However, state enforcement agency regulations provide that harassment based on sex is unlawful employment discrimination and adopt the federal regulations on sexual harassment. <i>Mont. Admin. Rules 24.9.604 & .1407</i>.</p>
<p>Does the state law define sexual harassment? No. However, state enforcement agency has adopted federal EEOC regulations, which provide a definition. <i>Mont. Admin. Rules 24.9.1407</i>.</p>
<p>What employers does the state law cover? An employer of one or more persons or an agent of the employer. <i>Mont. Code Ann. § 49-2-101(11)</i>.</p>
<p>What employees does the state law cover? An individual employed by an employer. <i>Mont. Code Ann. § 49-2-101(10)(a)</i>.</p>
<p>Does the state law provide for personal liability against a company leader/supervisor or just organizational liability? Unclear. Depends on how courts have interpreted employer portion of definition "agent of the employer." <i>Mont. Code Ann. § 49-2-101(11)</i>.</p>

<p>Are there general exceptions? Employee does not include an individual providing services for an employer if the individual has an independent contractor exemption certificate issued under 39-71-417 and is providing services under the terms of that certificate. <i>Mont. Code Ann. § 49-2-101(10)(a)</i>.</p> <p>Employer does not include a fraternal, charitable, or religious association or corporation if the association or corporation is not organized either for private profit or to provide accommodations or services that are available on a non-membership basis. <i>Mont. Code Ann. § 49-2-101(11)</i>.</p>
<p>Is there an anti-retaliation provision in the state law? Yes. <i>Mont. Code Ann. § 49-2-301</i>.</p>
<p>What is the state enforcement agency? Montana Human Rights Bureau.</p>
<p>Does the state law give the employee an immediate private right of action in court? No.</p>
<p>What is the state law's statute of limitations? 180 days. <i>Mont. Code Ann. §49-2-501(4)</i>.</p>
<p>Are the following types of damages and remedies available in the state law?</p> <ol style="list-style-type: none"> 1. Equitable: Not mentioned*. 2. Compensatory: Not mentioned*. 3. Punitive: No. 4. Attorney Fees/Court Costs for Prevailing Party: Not mentioned*. <i>Mont. Code Ann. § 49-2-506</i>. <p>*State law provides that the state enforcement agency can require any reasonable measure to correct the discriminatory practice and to rectify any harm, pecuniary or otherwise, to the person discriminated against.</p>
<p>Does the state law require workplace sexual harassment training? If yes, of whom and how often? No.</p>
<p>Does the state law require employers to display notice to employees of sexual harassment protection? No.</p>
<p>Does the state law require that employers have a written sexual harassment policy? No.</p>
<p>Other Information</p>

- NEBRASKA -

<p>Is there a state law that prohibits sexual harassment in the workplace? Yes. <i>Neb. Rev. Stat. Ann. § 48-1104</i>.</p>
<p>Does the state law define sexual harassment? Yes. <i>Neb. Rev. Stat. Ann. § 48-1102(14)</i>.</p>
<p>What employers does the state law cover? A person engaged in an industry who has 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year, any agent of such person, any party whose business is financed in whole or in part under the Nebraska Investment Finance Authority Act regardless of the number of employees, the state, governmental agencies, and political subdivisions. <i>Neb. Rev. Stat. Ann. § 48-1102(2)</i>.</p>

What employees does the state law cover? An individual employed by an employer. <i>Neb. Rev. Stat. Ann. § 48-1102(7).</i>
Does the state law provide for personal liability against a company leader/supervisor or just organizational liability? Unclear. Depends on how courts have interpreted employer portion of definition “person” and “agent of such person.” <i>Neb. Rev. Stat. Ann. § 48-1102(2).</i>
Are there general exceptions? Employer does not include the United States, a corporation wholly owned by the government of the United States, an Indian tribe, or a bona fide private membership club, other than a labor organization, which is exempt from taxation under section 501(c) of the Internal Revenue Code. <i>Neb. Rev. Stat. Ann. § 48-1102(2).</i> The state employment antidiscrimination law does not apply to the employment of any individual by his or her parent, grandparent, spouse, child, or grandchild, or in the domestic service of any person. <i>Neb. Rev. Stat. Ann. § 48-1103(2).</i>
Is there an anti-retaliation provision in the state law? Yes. <i>Neb. Rev. Stat. Ann. § 48-1114(1).</i>
What is the state enforcement agency? Nebraska Equal Opportunity Commission.
Does the state law give the employee an immediate private right of action in court? Yes. <i>Neb. Rev. Stat. Ann. § 20-148.</i>
What is the state law's statute of limitations? 300 days or both state enforcement agency claim and private court action. <i>Neb. Rev. Stat. Ann. § 48-1118(2).</i>
Are the following types of damages and remedies available in the state law? 1. Equitable: Yes. <i>Neb. Rev. Stat. Ann. § 48-1119(3).</i> 2. Compensatory: Yes*. <i>Neb. Rev. Stat. Ann. § 48-1119(4).</i> 3. Punitive: Not mentioned. 4. Attorney Fees/Court Costs for Prevailing Party: Yes. <i>Neb. Rev. Stat. Ann. § 48-1119(4).</i> *Called general & special damages.
Does the state law require workplace sexual harassment training? If yes, of whom and how often? No.
Does the state law require employers to display notice to employees of sexual harassment protection? Yes. <i>Neb. Rev. Stat. Ann. § 48-1121.</i>
Does the state law require that employers have a written sexual harassment policy? No.
Other Information

- NEVADA -

Is there a state law that prohibits sexual harassment in the workplace? No. State law does not explicitly mention/prohibit sexual harassment. State law prohibits discrimination based on sex. <i>Nev. Rev. Stat. Ann. § 613.330.</i>
Does the state law define sexual harassment? No.

<p>What employers does the state law cover? Any person who has 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year. <i>Nev. Rev. Stat. Ann. § 613.310(2).</i></p>
<p>What employees does the state law cover? Not defined, except by exception-see exceptions.</p>
<p>Does the state law provide for personal liability against a company leader/supervisor or just organizational liability? Unclear. Depends on how courts have interpreted employer portion of definition “person.” <i>Nev. Rev. Stat. Ann. § 613.310(2).</i></p>
<p>Are there general exceptions? Employer does not include the United States, any corporation wholly owned by the United States, any Indian tribe, any private membership club exempt from taxation pursuant to 26 U.S.C. § 501(c), or any employer with respect to employment outside the state. <i>Nev. Rev. Stat. Ann. §§ 613.310(2) & .320(1)(a).</i></p>
<p>Is there an anti-retaliation provision in the state law? Yes. <i>Nev. Rev. Stat. Ann. § 613.340.</i></p>
<p>What is the state enforcement agency? Nevada Equal Rights Commission.</p>
<p>Does the state law give the employee an immediate private right of action in court? No.</p>
<p>What is the state law's statute of limitations? 300 days. <i>Nev. Rev. Stat. Ann. § 233.160.</i></p>
<p>Are the following types of damages and remedies available in the state law?</p> <ol style="list-style-type: none"> 1. Equitable: Yes. 2. Compensatory: Not mentioned. 3. Punitive: Yes*. 4. Attorney Fees/Court Costs for Prevailing Party: Not mentioned. <i>Nev. Rev. Stat. Ann. § 233.170.</i> <p>*In cases involving an unlawful employment practice committed by an employer with 50 or more employees that state enforcement agency determines was willful, employers can be ordered to pay a civil penalty of:</p> <ul style="list-style-type: none"> -for the first unlawful employment practice that the person has engaged in during the immediately preceding five years which the state enforcement agency determines was willful, not more than \$5,000. -for the second unlawful employment practice that the person has engaged in during the immediately preceding five years which the state enforcement agency determines was willful, not more than \$10,000. -for the third and any subsequent unlawful employment practice that the person has engaged in during the immediately preceding five years which the state enforcement agency determines was willful, not more than \$15,000. <p>The penalty is deposited with the State Treasurer for credit to the State General Fund. <i>Nev. Rev. Stat. Ann. § 233.220.</i></p>
<p>Does the state law require workplace sexual harassment training? If yes, of whom and how often? No. Except of employees appointed to state service; training within six months of appointment and every two years thereafter. <i>Nev. Admin. Code § 284.496.</i></p>
<p>Does the state law require employers to display notice to employees of sexual harassment protection? No.</p>

Does the state law require that employers have a written sexual harassment policy? No.

Other Information: Agreements-A settlement agreement must not contain a provision that prohibits or otherwise restricts a party from disclosing factual information relating to a claim in a civil or administrative action if the claim relates to discrimination based on sex by an employer or retaliation by an employer for reporting discrimination based on sex. If a claimant requests, the settlement agreement must contain a provision that prohibits disclosing the claimant's identity and any facts relating to the action that could lead to disclosure of the claimant's identity. *Nev Rev. Stat. Ann. § 10.195.*

- NEW HAMPSHIRE -

Is there a state law that prohibits sexual harassment in the workplace? Yes. *N.H. Rev. Stat. Ann. § 354-A:7(V).*

Does the state law define sexual harassment? Yes. *N.H. Rev. Stat. Ann. § 354-A:7(V).*

What employers does the state law cover? Employers with six or more employees, the state, and all political subdivisions, boards, departments, and commissions thereof. *N.H. Rev. Stat. Ann. § 354-A:2(VII).*

What employees does the state law cover? Not defined, except by exception-see exceptions.

Does the state law provide for personal liability against a company leader/supervisor or just organizational liability? Not mentioned.

Are there general exceptions? Employees do not include any individual employed by a parent, spouse, or child, or any individual in the domestic service of any person. *N.H. Rev. Stat. Ann. § 354-A:2(VI).*

Employer does not include a social club, or fraternal or religious association or corporation, if such club, association, or corporation is not organized for private profit. *N.H. Rev. Stat. Ann. § 354-A:2(VII).*

Is there an anti-retaliation provision in the state law? Yes. *N.H. Rev. Stat. Ann. § 354-A:19.*

What is the state enforcement agency? New Hampshire Commission for Human Rights.

Does the state law give the employee an immediate private right of action in court? No.

1 What is the state law's statute of limitations? 180 days. *N.H. Rev. Stat. Ann. § 354-A:21(III).*

Are the following types of damages and remedies available in the state law?

1. Equitable: Yes.

2. Compensatory: Yes.

3. Punitive: Yes*.

4. Attorney Fees/Court Costs for Prevailing Party: Not mentioned *N.H. Rev. Stat. Ann. § 354-A:21(II)(d).*

*Administrative fine shall not exceed:

-\$10,000 if the respondent has not been adjudged to have committed any prior discriminatory practice in any administrative hearing or civil action.

<p>-\$25,000 if the respondent has been adjudged to have committed a prior discriminatory practice in any administrative hearing or civil action and the adjudication was made no more than five years prior to the date of filing the current charge.</p> <p>-\$50,000 if the respondent has been adjudged to have committed two or more discriminatory practices in any administrative hearings or civil actions and the adjudications were made during the seven-year period preceding the date of filing of the charge. <i>N.H. Rev. Stat. Ann. § 354-A:21(II)(d)</i>.</p>
<p>Does the state law require workplace sexual harassment training? If yes, of whom and how often? No.</p>
<p>Does the state law require employers to display notice to employees of sexual harassment protection? No. Required poster only mentions discrimination on the basis of sex, not sexual harassment.</p>
<p>Does the state law require that employers have a written sexual harassment policy? No.</p>
<p>Other Information</p>

- NEW JERSEY -

<p>Is there a state law that prohibits sexual harassment in the workplace? No. State law does not explicitly mention/prohibit sexual harassment. State law prohibits discrimination based on sex. <i>N.J. Stat. § 10:5-12</i>.</p>
<p>Does the state law define sexual harassment? No.</p>
<p>What employers does the state law cover? One or more individuals, partnerships, associations, organizations, labor organizations, corporations, legal representatives, trustees, trustees in bankruptcy, receivers, fiduciaries, the state, any political or civil subdivision thereof, and all public officers, agencies, boards, or bodies. <i>N.J. Stat. § 10:5-5(e)</i>.</p>
<p>What employees does the state law cover? Not defined, except by exception-see exceptions.</p>
<p>Does the state law provide for personal liability against a company leader/supervisor or just organizational liability? Unclear. Depends on how courts have interpreted employer portion of definition “individuals.” <i>N.J. Stat. § 10:5-5(e)</i>.</p>
<p>Are there general exceptions? Employee does not include any individual employed in the domestic service of any person. <i>N.J. Stat. § 10:5-5(f)</i>.</p>
<p>Is there an anti-retaliation provision in the state law? Yes. <i>N.J. Stat. § 10:5-12(d)</i>.</p>
<p>What is the state enforcement agency? New Jersey Division of Civil Rights.</p>
<p>Does the state law give the employee an immediate private right of action in court? Yes. <i>N.J. Stat. §§ 10:5-12.11 & -13(a)(2)</i>.</p>
<p>What is the state law's statute of limitations? 180 days for state enforcement agency claim. <i>N.J. Stat. § 10:5-18</i>. Two years for private court action. <i>N.J. Stat. § 10:5-12.11</i>.</p>
<p>Are the following types of damages and remedies available in the state law? 1. Equitable: Yes*. <i>N.J. Stat. § 10:5-17</i>.</p>

2. Compensatory: Yes*. *N.J. Stat. §§ 10:5-3 & :5-17.*

3. Punitive: Yes*#. *N.J. Stat. § 10:5-3.*

4. Attorney Fees/Court Costs for Prevailing Party: Yes*. *N.J. Stat. § 10:5-27.1.*

*In court actions, all remedies available in common law tort actions shall be available to prevailing plaintiffs. *N.J. Stat. § 10:5-13.*

#Any person who violates the state employment antidiscrimination law shall, in addition to any other relief or affirmative action provided by law, be liable for the following penalties:

- in an amount not exceeding \$10,000 if the respondent has not been adjudged to have committed any prior violation within the five-year period ending on the date of the filing of this charge;
- in an amount not exceeding \$25,000 if the respondent has been adjudged to have committed one other violation within the five-year period ending on the date of the filing of this charge; and
- in an amount not exceeding \$50,000 if the respondent has been adjudged to have committed two or more violations within the seven-year period ending on the date of the filing of this charge. The penalties shall be determined by the director or court in such amounts as the director deems proper under the circumstances. Any such amounts collected by the director shall be paid to state treasury for the general purposes of state. *N.J. Stat. §10:5-14.1a.*

Does the state law require workplace sexual harassment training? If yes, of whom and how often? No. Except for state employees responsible for managing and investigating complaints of harassment or discrimination; every three years. *N.J. Rev. Stat. § 11A:7-14.*

Does the state law require employers to display notice to employees of sexual harassment protection? Yes. *N.J. Stat. § 10:5-12(j).*

Does the state law require that employers have a written sexual harassment policy? No.

Other Information: Agreements-A provision in any employment contract or settlement agreement which has the purpose or effect of concealing the details relating to a claim of discrimination, retaliation, or harassment shall be deemed against public policy and unenforceable. If the employee publicly reveals sufficient details of the claim so that the employer is reasonably identifiable, then the nondisclosure provision is unenforceable against the employer. *N.J. Stat. §10:5-12.8.* No right or remedy under state employment antidiscrimination law or any other statute or case law can be prospectively waived. *N.J. Stat. §10:5-12.7.*

Arbitration Limited-A provision in any employment contract that waives any substantive or procedural right or remedy relating to a claim of discrimination, retaliation, or harassment shall be deemed against public policy and unenforceable. *N.J. Stat. §10:5-12.7.*

- NEW MEXICO -

Is there a state law that prohibits sexual harassment in the workplace? No. State law does not explicitly mention/prohibit sexual harassment. State law prohibits discrimination based on sex. *N.M. Stat. Ann. § 28-1-7.*

Does the state law define sexual harassment? No.

What employers does the state law cover? Any person employing four or more persons and any person acting for an employer. *N.M. Stat. Ann. § 28-1-2(B).*

What employees does the state law cover? Any person in the employ of an employer or an applicant for employment. *N.M. Stat. Ann. § 28-1-2(E).*

<p>Does the state law provide for personal liability against a company leader/supervisor or just organizational liability? Unclear. Depends on how courts have interpreted employer portion of definition “person” and “person acting for an employer.” <i>N.M. Stat. Ann. § 28-1-2(B)</i>.</p>
<p>Are there general exceptions? No.</p>
<p>Is there an anti-retaliation provision in the state law? Yes. <i>N.M. Stat. Ann. § 28-1-7</i>.</p>
<p>What is the state enforcement agency? New Mexico Human Rights Bureau.</p>
<p>Does the state law give the employee an immediate private right of action in court? No.</p>
<p>What is the state law's statute of limitations? 300 days. <i>N.M. Stat. Ann. § 28-1-10(A)</i>.</p>
<p>Are the following types of damages and remedies available in the state law?</p> <ol style="list-style-type: none"> 1. Equitable: Not mentioned. 2. Compensatory: Not mentioned*. 3. Punitive: Not mentioned. 4. Attorney Fees/Court Costs for Prevailing Party: Yes. <i>N.M. Stat. Ann. § 28-1-11(E)</i>. <p>*Law allows for “actual damages,” but is unsettled as to whether provision for “actual damages” encompasses damages for emotional harm. <i>Roybal v. City of Albuquerque, 653 F. Supp. 102 (D.N.M. 1986)</i>.</p>
<p>Does the state law require workplace sexual harassment training? If yes, of whom and how often? No.</p>
<p>Does the state law require employers to display notice to employees of sexual harassment protection? No.</p>
<p>Does the state law require that employers have a written sexual harassment policy? No.</p>
<p>Other Information: Agreements-A private employer may not, as a term of employment: -require an employee to sign a nondisclosure provision of a settlement agreement relating to a claim of sexual harassment, discrimination, or retaliation occurring in the workplace brought by the employee; or -prevent the employee from disclosing a claim of sexual harassment, discrimination, or retaliation occurring in the workplace or at a work-related event coordinated by or through the employer. This does not apply to settlement agreements that, at the employee’s request, either prohibit disclosure of facts that could lead to the identification of the employee or prevent the disclosure of factual information related to the underlying claim, provided that such information must be disclosed pursuant to a valid subpoena or otherwise required by law. <i>N.M. Stat. Ann. § 50-4-36</i>.</p>

– NEW YORK –

<p>Is there a state law that prohibits sexual harassment in the workplace? Yes. <i>N.Y. Exec. L. § 296(1)(h)</i>.</p>
<p>Does the state law define sexual harassment? Yes (in 2019, requirement that harassment be severe or pervasive was removed). <i>N.Y. Exec. L. § 296(1)(h)</i>; https://dhr.ny.gov/system/files/documents/2022/05/nysdhr-legal-updates-10112019.pdf</p>

<p>What employers does the state law cover? All employers within the state. The state shall be considered an employer of any employee or official, including any elected official, of the state executive, legislature, or judiciary, including persons serving in any judicial capacity, and persons serving on the staff of any elected official in the state. A city, county, town, village, or other political subdivision of the state shall be considered an employer of any employee or official, including any elected official, of such locality's executive, legislature, or judiciary, including persons serving in any local judicial capacity, and persons serving on the staff of any local elected official. <i>N.Y. Exec. L. § 292(5)</i>.</p>
<p>What employees does the state law cover? Not defined, except by exception-see exceptions.</p>
<p>Does the state law provide for personal liability against a company leader/supervisor or just organizational liability? Not mentioned.</p>
<p>Are there general exceptions? Employee does not include any individual employed by his or her parents, spouse, or child. <i>N.Y. Exec. L. § 292(6)</i>.</p>
<p>Is there an anti-retaliation provision in the state law? Yes. <i>N.Y. Exec. L. § 296(1)(e) & (h)</i>.</p>
<p>What is the state enforcement agency? New York Division of Human Rights.</p>
<p>Does the state law give the employee an immediate private right of action in court? Yes. <i>N.Y. Exec. L. § 297(9)</i>.</p>
<p>What is the state law's statute of limitations? Three years for both state enforcement agency claim and private court action. <i>N.Y. Exec. L. § 297(5); N.Y. Civ. Prac. L. & R. § 214(2)</i>.</p>
<p>Are the following types of damages and remedies available in the state law?</p> <ol style="list-style-type: none"> 1. Equitable: Yes. <i>N.Y. Exec. L. § 297(4)(c)</i>. 2. Compensatory: Yes. <i>N.Y. Exec. L. § 297(4)(c)</i>. 3. Punitive: Yes*. <i>N.Y. Exec. L. § 297(4)(c)</i>. 4. Attorney Fees/Court Costs for Prevailing Party: Yes. <i>N.Y. Exec. L. § 297(10)</i>. <p>*Damages can also include civil fines and penalties, in an amount not to exceed \$50,000, to be paid to the state by a respondent found to have committed an unlawful discriminatory act, or not to exceed \$100,000 to be paid to the state by a respondent found to have committed an unlawful discriminatory act which is found to be willful, wanton or malicious.</p>
<p>Does the state law require workplace sexual harassment training? If yes, of whom and how often? Yes. Of employees working any portion of their time in New York; annually. <i>N.Y. Labor L. § 201-G</i>.</p>
<p>Does the state law require employers to display notice to employees of sexual harassment protection? Yes. <i>N.Y. Labor. L. § 201-G</i>.</p>
<p>Does the state law require that employers have a written sexual harassment policy? Yes. <i>N.Y. Labor. L. § 201-G</i>.</p>
<p>Other Information: Agreements-Any contract or other agreement between an employer and any employee or potential employee that prevents the employee from disclosing factual information related to any future claim of discrimination is void and unenforceable unless the provision notifies the employee that it does not prohibit speaking with law enforcement, EEOC, NY State Division of Human</p>

Rights, a local commission on human rights, or an attorney retained by the employee. *N.Y. Gen. Oblig. Law § 5-336(2)*. Settlements involving employment discrimination claims may not include any term or condition that prevents disclosure of the claim's underlying facts and circumstances unless such term or condition is the complainant's preference and certain other procedural requirements are met. *N.Y. Gen. Oblig. Law § 5-336(1)*; *N.Y. Civ. Prac. L. & R. 5003-b*.

Arbitration Limited-A written contract may not contain a provision requiring mandatory arbitration to resolve any discrimination allegation or claim. *N.Y. Civil Practice Law & Rules §7515*.

- NORTH CAROLINA -

Is there a state law that prohibits sexual harassment in the workplace? No. State law does not explicitly mention/prohibit sexual harassment. State law prohibits discrimination based on sex. *N.C. Gen. Stat. § 143-422.2(a)*.

Does the state law define sexual harassment? No.

What employers does the state law cover? Employers with 15 or more employees. *N.C. Gen. Stat. §143-422.2(a)*.

What employees does the state law cover? Not mentioned.

Does the state law provide for personal liability against a company leader/supervisor or just organizational liability? Not mentioned.

Are there general exceptions? No.

Is there an anti-retaliation provision in the state law? No.

What is the state enforcement agency? Federal EEOC (employees of private employers). North Carolina Office of Administrative Hearings, Civil Rights Division, Human Relations Commission of Federal EEOC (state and local government employees). *26 NCAC 04 .0101*.

Does the state law give the employee an immediate private right of action in court? No.

What is the state law's statute of limitations? Not mentioned.

Are the following types of damages and remedies available in the state law?

1. **Equitable:** Not mentioned.
2. **Compensatory:** Not mentioned.
3. **Punitive:** Not mentioned.
4. **Attorney Fees/Court Costs for Prevailing Party:** Not mentioned.

Does the state law require workplace sexual harassment training? If yes, of whom and how often? No. Except by state agencies; at time of hire and every two years. *25 NCAC 01J .1101(f)*.

Does the state law require employers to display notice to employees of sexual harassment protection? No.

Does the state law require that employers have a written sexual harassment policy? No.

Other Information

– NORTH DAKOTA –

Is there a state law that prohibits sexual harassment in the workplace? Yes. *N.D. Cent. Code §§ 14-02.4-02(6) & .4-03.*

Does the state law define sexual harassment? Yes. *N.D. Cent. Code § 14-02.4-02(6).*

What employers does the state law cover? A person within the state who employs one or more employees for more than one quarter of the year, and a person wherever situated who employs one or more employees whose services are to be partially or wholly performed in the state. *N.D. Cent. Code § 14-02.4-02(8).*

What employees does the state law cover? A person who performs services for an employer, who employs one or more individuals, for compensation, whether in the form of wages, salaries, commission, or otherwise. *N.D. Cent. Code § 14-02.4-02(7).*

Does the state law provide for personal liability against a company leader/supervisor or just organizational liability? Unclear. Depends on how courts have interpreted employer portion of definition “person.” *N.D. Cent. Code § 14-02.4-02(8).*

Are there general exceptions? Employee does not include a person elected to public office in the state or political subdivision by the qualified voters thereof, a person chosen by the officer to be on the officer’s political staff, an appointee on the policymaking level, or an immediate advisor with respect to the exercise of the constitutional or legal powers of the office. *N.D. Cent. Code § 14-02.4-02(7).*

The state employment antidiscrimination law does not apply to business policies or practices relating to the employment of an individual by the individual's parent, grandparent, spouse, child, or grandchild, or in the domestic service of a person. *N.D. Cent. Code § 14-02.4-10(1).*

Is there an anti-retaliation provision in the state law? Yes. *N.D. Cent. Code § 14-02.4-18.*

What is the state enforcement agency? North Dakota Department of Labor and Human Rights, Human Rights Division.

Does the state law give the employee an immediate private right of action in court? Yes. *N.D. Cent. Code § 14-02.4-19.*

What is the state law's statute of limitations? 300 days for both state enforcement agency claim and private court action. *N.D. Cent. Code § 14-02.4-19(2).*

Are the following types of damages and remedies available in the state law?

1. Equitable: Yes.

2. Compensatory: No.

3. Punitive: No.

4. Attorney Fees/Court Costs for Prevailing Party: Yes. *N.D. Cent. Code § 14-02.4-20.*

Does the state law require workplace sexual harassment training? If yes, of whom and how often? No.

Does the state law require employers to display notice to employees of sexual harassment protection? No.

Does the state law require that employers have a written sexual harassment policy? No.

Other Information

– OHIO –

Is there a state law that prohibits sexual harassment in the workplace? No. State law does not explicitly mention/prohibit sexual harassment. State law prohibits discrimination based on sex. *Ohio Rev. Code Ann. § 411.02* However, state enforcement agency regulations provide that sexual harassment is a violation state employment antidiscrimination law. *Ohio Admin. Code § 4112-5-05(J)(1)*.

Does the state law define sexual harassment? No. However, state enforcement agency regulations provide a definition. *Ohio Admin. Code § 4112-5-05(J)(1)*.

What employers does the state law cover? State, political subdivision of the state, or a person employing four or more persons within the state and any agent of the state, political subdivision, or person. *Ohio Rev. Code Ann. § 4112.01(A)(2)*.

What employees does the state law cover? Individual employed by any employer. *Ohio Rev. Code Ann. § 4112.01(A)(3)*.

Does the state law provide for personal liability against a company leader/supervisor or just organizational liability? No. *Ohio Rev. Code Ann. § 4112.08(A)*.

Are there general exceptions? Employee does not include an individual employed in the domestic service of any person. *Ohio Rev. Code Ann. § 4112.01(A)(3)*.

Is there an anti-retaliation provision in the state law? Yes. *Ohio Rev. Code Ann. § 4112.02(I)*.

What is the state enforcement agency? Ohio Civil Rights Commission.

Does the state law give the employee an immediate private right of action in court? No.

What is the state law's statute of limitations? Two years. *Ohio Rev. Code Ann. § 4112.051(C)(2)*.

Are the following types of damages and remedies available in the state law?

- 1. Equitable:** Yes. *Ohio Rev. Code Ann. § 4112.051(H)*.
- 2. Compensatory:** Yes*. *Ohio Rev. Code Ann. § 2315.18 (B)(1)-(2)*.
- 3. Punitive:** Yes#. *Ohio Rev. Code Ann. § 2315.21(D)(2)*.
- 4. Attorney Fees/Court Costs for Prevailing Party:** Not mentioned

*There is no cap on economic compensatory damages (e.g., lost wages). Non-economic compensatory damages (e.g., emotional distress) are capped at the greater of either \$250,000 or three times the

economic compensatory damages up to \$350,000 for each plaintiff or \$500,000 for each occurrence, whichever is greater.

#Limited to two times the amount of compensatory damages (excluding any award of attorney's fees) awarded to the plaintiff.

Does the state law require workplace sexual harassment training? If yes, of whom and how often? No.

Does the state law require employers to display notice to employees of sexual harassment protection? Yes. *Ohio Rev. Code Ann. § 4112.07.*

Does the state law require that employers have a written sexual harassment policy? No.

Other Information

- OKLAHOMA -

Is there a state law that prohibits sexual harassment in the workplace? No. State law does not explicitly mention/prohibit sexual harassment. State law prohibits discrimination based on sex. *OK Stat § 25.1302.* However, state enforcement agency regulations provide that sexual harassment is a violation state employment antidiscrimination law. *OK Admin. Code § 335:15-3-10.*

Does the state law define sexual harassment? No. However, state enforcement agency regulations do include a definition. *OK Admin. Code § 335:15-3-10.*

What employers does the state law cover? A legal entity, institution, or organization that pays one or more individuals a salary or wages for work performance, or a legal entity, institution, or organization which contracts or subcontracts with the state, a governmental entity, or a state agency to furnish material or perform work. *OK Stat § 25-1301(1).*

What employees does the state law cover? An individual who receives a salary or wages from an employer. *OK Stat § 25-1301(8).*

Does the state law provide for personal liability against a company leader/supervisor or just organizational liability? Not mentioned.

Are there general exceptions? Employee does not include independent contractors, an individual employed by his or her parents, spouse, or child, or those employed in the domestic service of the employer. *OK Stat §§ 25.1301(8) & .1301(B).*

Employer does not include a Native American tribe or a bona fide membership club, other than a labor organization, that is exempt from taxation under Title 26, Section 501(c) of the United States Code. *OK Stat § 25.1301(1).*

Is there an anti-retaliation provision in the state law? Yes. *OK Stat § 25.1601.*

What is the state enforcement agency? Oklahoma Attorney General's Office, Office of Civil Rights Enforcement.

Does the state law give the employee an immediate private right of action in court? No.

What is the state law's statute of limitations? 180 days. <i>OK Admin. Code § 25-1350(B)</i> .
Are the following types of damages and remedies available in the state law? 1. Equitable: Yes. <i>OK Stat. § 25-1350(G)</i> . 2. Compensatory: Not mentioned. 3. Punitive: Not mentioned*. 4. Attorney Fees/Court Costs for Prevailing Party: Yes. <i>OK Stat. § 25-1350(H)</i> . * A prevailing aggrieved party is entitled to backpay and an additional amount as liquidated damages. <i>OK Stat. § 25-1350(G)</i> . Unclear if backpay must be awarded in order to obtain liquidated damages too.
Does the state law require workplace sexual harassment training? If yes, of whom and how often? No.
Does the state law require employers to display notice to employees of sexual harassment protection? No.
Does the state law require that employers have a written sexual harassment policy? No.
Other Information

- OREGON -

Is there a state law that prohibits sexual harassment in the workplace? No. State law does not explicitly mention/prohibit sexual harassment. State law prohibits discrimination based on sex. <i>Or. Rev. Stat. 659A.030</i> . However, state enforcement agency regulations provide that sexual harassment is unlawful discrimination on the basis of sex. <i>Or. Admin Rule § 839-005-0030</i> .
Does the state law define sexual harassment? No. However, state enforcement agency regulations provide a definition. <i>Or. Admin Rule § 839-005-0030(1)</i> .
What employers does the state law cover? Any person who in the state, directly or through an agent, engages or uses the personal service of one or more employees, reserving the right to control the means by which such service is or will be performed; any public body that, directly or through an agent, engages or utilizes the personal service of one or more employees, reserving the right to control the means by which such service is or will be performed, including all officers, agencies, departments, divisions, bureaus, boards, and commissions of the legislative, judicial, and administrative branches of the state, all county and city governing bodies, school districts, special districts, municipal corporations, and all other political subdivisions of the state; any person who, in the state, is in an employment relationship with an intern (as defined in state law). <i>Or. Rev. Stat. § 659A.001(4)</i> ; <i>Or. Admin. Rule § 839-005-0003(5)</i> .
What employees does the state law cover? Not defined, except by exception-see exceptions.
Does the state law provide for personal liability against a company leader/supervisor or just organizational liability? Unclear. Depends on how courts have interpreted employer portion of definition "person" and "agent." <i>Or. Rev. Stat. § 659A.001(4)</i> . <i>Or. Admin. Rule § 839-005-0003(5)</i> .
Are there general exceptions? Employee does not include individual employed by that individual's parents (unless the individual is in the domestic service of their parent and is 26 years or

<p>older), spouse, or child, or in the domestic service of any person. <i>Or. Rev. Stat. § 659A.001(3); Or. Admin. Rule § 839-005-0003(4).</i></p> <p>Employer does not include a bona fide church or other religious institution. <i>Or. Rev. Stat. § 659A.006.</i></p>
<p>Is there an anti-retaliation provision in the state law? Yes. <i>Or. Rev. Stat. §§ 659A.030(1)(f) & .865.</i></p>
<p>What is the state enforcement agency? Oregon Bureau of Labor and Industries.</p>
<p>Does the state law give the employee an immediate private right of action in court? Yes. <i>Or. Rev. Stat. § 659A.870(2).</i></p>
<p>What is the state law's statute of limitations? Five years for both state enforcement agency claim and private court action. <i>Or. Rev. Stat. §§ 659A.820(3) & .875(1)(b).</i></p>
<p>Are the following types of damages and remedies available in the state law?</p> <ol style="list-style-type: none"> 1. Equitable: Yes. <i>Or. Rev. Stat. § 659A.885(1).</i> 2. Compensatory: Yes*. <i>Or. Rev. Stat. § 659A.885(3).</i> 3. Punitive: Yes. <i>Or. Rev. Stat. § 659A.885(3).</i> 4. Attorney Fees/Court Costs for Prevailing Party: Yes. <i>Or. Rev. Stat. § 659A.885(1).</i> <p>*Limited to \$200.</p>
<p>Does the state law require workplace sexual harassment training? If yes, of whom and how often? No.</p>
<p>Does the state law require employers to display notice to employees of sexual harassment protection? Yes. <i>Or. Rev. Stat. § 659A.375.</i></p>
<p>Does the state law require that employers have a written sexual harassment policy? Yes. <i>Or. Rev. Stat. § 659A.375.</i></p>
<p>Other Information: Agreements-Unless requested by an employee, an employer cannot enter into an agreement with an employee or prospective employee as a condition of employment, continued employment, promotion, compensation, or the receipt of benefits that contains a nondisclosure provision, a nondisparagement provision, or any other provision that has the purpose or effect of preventing the employee from disclosing or discussing conduct that is employment discrimination prohibited by state law. Additionally, unless requested by an employee, a settlement, separation, or severance agreement cannot contain a provision that prevents the disclosure of factual information relating to a claim of discrimination or conduct that constitutes sexual assault, or a no-rehire provision that prohibits the employee from seeking reemployment with the employer. <i>Or. Rev. Stat. § 659A.370.</i></p>

- PENNSYLVANIA -

<p>Is there a state law that prohibits sexual harassment in the workplace? No. State law does not explicitly mention/prohibit sexual harassment. State law prohibits discrimination based on sex. <i>43 P.S. § 955.</i> However, state enforcement agency guidelines provide that harassment on the basis of sex is a violation state employment antidiscrimination law. https://www.legis.state.pa.us/cfdocs/legis/li/uconsCheck.cfm?txtType=HTM&yr=1955&sessInd=0&act=0222.&chpt=000.&subchpt=000.&sctn=000.&subctn=000</p>
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<p>Does the state law define sexual harassment? No. However, state enforcement agency guidelines provide a definition. https://www.phrc.pa.gov/LegalResources/Policy-and-Law/Non%20Discrimination/Sexual%20Harassment%20Guidelines.pdf</p>
<p>What employers does the state law cover? The Commonwealth or any political subdivision or board, department, commission, or school district thereof and any person employing four or more persons within the commonwealth. <i>43 P.S. § 954(b)</i>.</p>
<p>What employees does the state law cover? Not defined, except by exception-see exceptions.</p>
<p>Does the state law provide for personal liability against a company leader/supervisor or just organizational liability? Unclear. Depends on how courts have interpreted employer portion of definition “person.” <i>43 P.S. § 954(b)</i>.</p>
<p>Are there general exceptions? Employee does not include any individual employed in agriculture or in the domestic service of any person, any individuals who as a part of their employment-reside in the personal residence of the employer, or any individual employed by said individual’s parents, spouse, or child. <i>43 P.S. § 954(c)</i>.</p>
<p>Is there an anti-retaliation provision in the state law? Yes. <i>43 P.S. § 955(d)</i>.</p>
<p>What is the state enforcement agency? Pennsylvania Human Relations Commission.</p>
<p>Does the state law give the employee an immediate private right of action in court? No.</p>
<p>What is the state law's statute of limitations? 180 days. <i>43 Pa. Stat. § 959(h)</i>.</p>
<p>Are the following types of damages and remedies available in the state law?</p> <ol style="list-style-type: none"> 1. Equitable: Yes. <i>43 PS §§ 959(f)(1) & 962(c)(3)</i>. 2. Compensatory: Not mentioned, except retaliation claim. <i>43 PS § 959(f)(1)</i>. 3. Punitive: Not mentioned. 4. Attorney Fees/Court Costs for Prevailing Party: Yes. <i>43 PS § 959(f.1) (retaliation claims) & 962(c.2) (court cases)</i>.
<p>Does the state law require workplace sexual harassment training? If yes, of whom and how often? No.</p>
<p>Does the state law require employers to display notice to employees of sexual harassment protection? No. Required poster only mentions discrimination on the basis of sex, not sexual harassment.</p>
<p>Does the state law require that employers have a written sexual harassment policy? No.</p>
<p>Other Information</p>

– RHODE ISLAND –

<p>Is there a state law that prohibits sexual harassment in the workplace? No. State law does not explicitly mention/prohibit sexual harassment. State law prohibits discrimination based on</p>

sex. <i>R.I. Gen. Laws § 28-5-7</i> . However, state enforcement agency regulations provide that harassment on the basis of sex is a violation of state employment antidiscrimination law. <i>515-RICR-10-00-1.3.1(A)</i> .
Does the state law define sexual harassment? No, not within state employment antidiscrimination code section. However, another code section on sexual harassment policies and sexual harassment provides a definition. <i>R.I. Gen. Laws § 28-51-1 & 515-RICR-10-00-1.3.1(B)</i> .
What employers does the state law cover? The state and all political subdivisions of the state, any person in the state employing four or more individuals, and any person acting in the interest of an employer directly or indirectly. <i>R.I. Gen. Laws § 28-5-6(8)(i)</i> .
What employees does the state law cover? Not defined, except by exception-see exceptions.
Does the state law provide for personal liability against a company leader/supervisor or just organizational liability? Unclear. Depends on how courts have interpreted employer portion of definition “person” and “person acting in the interest of an employer directly or indirectly.” <i>R.I. Gen. Laws § 28-5-6(8)(i)</i> .
Are there general exceptions? Employee does not include any individual employed by his or her parents, spouse, or child, or in the domestic service of any person. <i>R.I. Gen. Laws § 28-5-6(7)</i> .
Is there an anti-retaliation provision in the state law? Yes. <i>R.I. Gen. Laws § 28-5-7</i> .
What is the state enforcement agency? Rhode Island Commission for Human Rights.
Does the state law give the employee an immediate private right of action in court? No.
What is the state law's statute of limitations? One year. <i>R.I. Gen. Laws § 28-5-17(a)</i> .
Are the following types of damages and remedies available in the state law? 1. Equitable: Yes. <i>R.I. Gen. Laws § 28-5-24</i> . 2. Compensatory: Yes. <i>R.I. Gen. Laws § 28-5-24</i> . 3. Punitive: Yes. <i>R.I. Gen. Laws § 28-5-29.1</i> . 4. Attorney Fees/Court Costs for Prevailing Party: Yes. <i>R.I. Gen. Laws § 28-5-24</i> .
Does the state law require workplace sexual harassment training? If yes, of whom and how often? No.
Does the state law require employers to display notice to employees of sexual harassment protection? Yes, if employer has 50 or more employees. <i>R.I. Gen. Laws §§ 28-51-1 & -2</i> .
Does the state law require that employers have a written sexual harassment policy? Yes, if employer has 50 or more employees. <i>R.I. Gen. Laws §§ 28-51-1 & -2</i> .
Other Information

- SOUTH CAROLINA -

<p>Is there a state law that prohibits sexual harassment in the workplace? No. State law does not explicitly mention/prohibit sexual harassment. State law prohibits discrimination based on sex. <i>S.C. Code Ann. § 1-13-20</i>. However, sexual harassment appears to be encompassed within prohibited discrimination based on state enforcement agency website. https://schac.sc.gov/employment-discrimination</p>
<p>Does the state law define sexual harassment? No.</p>
<p>What employers does the state law cover? Any person who has 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year, and any agent of such a person. <i>S.C. Code Ann. § 1-13-30(e)</i>. “Person” defined to include the state and any of its agencies and departments or local subdivisions of state agencies and departments; and municipalities, counties, special purpose districts, school districts, and other local governments. <i>S.C. Code Ann. § 1-13-30(d)</i>.</p>
<p>What employees does the state law cover? Individual employed by an employer. <i>S.C. Code Ann. § 1-13-30(h)</i>.</p>
<p>Does the state law provide for personal liability against a company leader/supervisor or just organizational liability? Unclear. Depends on how courts have interpreted employer portion of definition “person” and “agent of such a person.” <i>S.C. Code Ann. § 1-13-30(e)</i>.</p>
<p>Are there general exceptions? Employee does not include any person elected to public office in the state, any person chosen by such officer to be on such officer’s personal staff, an appointee on the policy-making level, or an immediate adviser with respect to the exercise of the constitutional or legal powers of the office. <i>S.C. Code Ann. § 1-13-30(h)</i>.</p> <p>Employer does not include an Indian tribe or a bona fide private membership club other than a labor organization. <i>S.C. Code Ann. § 1-13-30(e)</i>.</p>
<p>Is there an anti-retaliation provision in the state law? Yes. <i>S.C. Code Ann. § 1-13-80(F)</i>.</p>
<p>What is the state enforcement agency? South Carolina Human Affairs Commission.</p>
<p>Does the state law give the employee an immediate private right of action in court? No.</p>
<p>What is the state law's statute of limitations? 180 days. <i>S.C. Code Ann. § 1-13-90(a)</i>.</p>
<p>Are the following types of damages and remedies available in the state law?</p> <ol style="list-style-type: none">1. Equitable: Yes. <i>S.C. Code Ann. § 1-13-90(d)(9)</i>.2. Compensatory: Not mentioned.3. Punitive: Not mentioned.4. Attorney Fees/Court Costs for Prevailing Party: Yes. https://schac.sc.gov/employment-discrimination/how-file-employment-complaints/remedies
<p>Does the state law require workplace sexual harassment training? If yes, of whom and how often? No.</p>

<p>Does the state law require employers to display notice to employees of sexual harassment protection? Yes. <i>S.C. Code of State Regulations § 65-24.</i></p>
<p>Does the state law require that employers have a written sexual harassment policy? No.</p>
<p>Other Information</p>

– SOUTH DAKOTA –

<p>Is there a state law that prohibits sexual harassment in the workplace? No. State law does not explicitly mention/prohibit sexual harassment. State law prohibits discrimination based on sex. <i>S.D. Codified Laws § 20-13-10.</i> However, sexual harassment appears to be encompassed within prohibited discrimination based on state enforcement agency website. https://dlr.sd.gov/human_rights/sexual_harrassment.aspx</p>
<p>Does the state law define sexual harassment? No.</p>
<p>What employers does the state law cover? Any person within the state who hires or employs any employee, and any person wherever situated who hires or employs any employee whose services are to be partially or wholly performed in the state. <i>S.D. Codified Laws § 20-13-1(7).</i></p>
<p>What employees does the state law cover? Any person who performs services for any employer for compensation, whether in the form of wages, salary, commission, or otherwise. <i>S.D. Codified Laws § 20-13-1(6).</i></p>
<p>Does the state law provide for personal liability against a company leader/supervisor or just organizational liability? Unclear. Depends on how courts have interpreted employer portion of definition “person.” <i>S.D. Codified Laws § 20-13-1(7).</i></p>
<p>Are there general exceptions? No.</p>
<p>Is there an anti-retaliation provision in the state law? Yes. <i>S.D. Codified Laws § 20-13-26.</i></p>
<p>What is the state enforcement agency? South Dakota State Commission of Human Rights.</p>
<p>Does the state law give the employee an immediate private right of action in court? No.</p>
<p>What is the state law's statute of limitations? 180 days. <i>S.D. Codified Laws § 20-13-31.</i></p>
<p>Are the following types of damages and remedies available in the state law?</p> <ol style="list-style-type: none"> 1. Equitable: Yes. <i>S.D. Codified Laws § 20-13-42.</i> 2. Compensatory: Yes, if court action. <i>S.D. Codified Laws § 20-13-35.1.</i> 3. Punitive: No, except retaliation. <i>S.D. Codified Laws § 20-13-35.1.</i> 4. Attorney Fees/Court Costs for Prevailing Party: Not mentioned.
<p>Does the state law require workplace sexual harassment training? If yes, of whom and how often? No.</p>

Does the state law require employers to display notice to employees of sexual harassment protection? No.
Does the state law require that employers have a written sexual harassment policy? No.
Other Information

- TENNESSEE -

<p>Is there a state law that prohibits sexual harassment in the workplace? No. State law does not explicitly mention/prohibit sexual harassment. State law prohibits discrimination based on sex. <i>Tenn. Code Ann. § 4-21-401</i>. However, harassment appears to be encompassed within prohibited discrimination based on intake questionnaire aggrieved employee must file with state enforcement agency. https://www.tn.gov/content/dam/tn/humanrights/documents/2019%20English%20Complaint%20Form.pdf</p>
<p>Does the state law define sexual harassment? No.</p>
<p>What employers does the state law cover? State, any political or civil subdivision thereof, persons employing eight or more persons within the state, or any person acting as an agent of an employer, directly or indirectly. <i>Tenn. Code Ann. § 4-21-102(5)</i>.</p>
<p>What employees does the state law cover? Not defined.</p>
<p>Does the state law provide for personal liability against a company leader/supervisor or just organizational liability? No. <i>Tenn. Code Ann. § 4-21-301(b)</i>.</p>
<p>Are there general exceptions? The state antidiscrimination law does not apply to the employment of an individual by such individual's parent, spouse, or child, or to employment in the domestic service of the employee. <i>Tenn. Code Ann. § 4-21-401(b)</i>.</p>
<p>Is there an anti-retaliation provision in the state law? Yes. <i>Tenn. Code Ann. § 4-21-301(a)(1)</i>.</p>
<p>What is the state enforcement agency? Tennessee Human Rights Commission.</p>
<p>Does the state law give the employee an immediate private right of action in court? Yes. <i>Tenn. Code Ann. § 4-21-311</i>.</p>
<p>What is the state law's statute of limitations? 180 days for state enforcement agency claim. <i>Tenn. Code Ann. § 4-21-302(c)</i>. One year for private court action. <i>Tenn. Code Ann. § 4-21-311</i>.</p>
<p>Are the following types of damages and remedies available in the state law?</p> <ol style="list-style-type: none"> 1. Equitable: Yes. <i>Tenn. Code Ann. § 4-21-306(a)(1)</i>. 2. Compensatory: Yes*~. <i>Tenn. Code Ann. § 4-21-306(a)(7)</i>. 3. Punitive: No, except in malicious harassment civil court actions~#. <i>Tenn. Code Ann. § 4-21-701</i>. 4. Attorney Fees/Court Costs for Prevailing Party: Yes~. <i>Tenn. Code Ann. § 4-21-306(a)(7)</i>. <p>*2 cannot exceed: -in the case of an employer who has eight or more but fewer than 15 employees at the time the cause of</p>

action arose, \$25,000;
 -in the case of an employer who has more than 14 and fewer than 101 employees at the time the cause of action arose, \$50,000;
 -in the case of an employer who has more than 100 and fewer than 201 employees at the time the cause of action arose, \$100,000;
 -in the case of an employer who has more than 200 and fewer than 501 employees at the time the cause of action arose, \$200,000; and
 -in the case of an employer who has more than 500 employees at the time the cause of action arose, \$300,000. *Tenn. Code Ann. § 4-21-313.*

~Also allowed in civil actions for malicious harassment. *Tenn. Code Ann. §4-21-701.*

#In civil court actions, 3 cannot exceed two times the amount of any compensatory damages awarded, or \$500,000, whichever is greater. *Tenn. Code Ann. § 29-39-104.*

Does the state law require workplace sexual harassment training? If yes, of whom and how often? No. Except by state agencies; law does not mention how often. *Tenn. Code Ann. § 4-3-1703.*

Does the state law require employers to display notice to employees of sexual harassment protection? No. Required poster only mentions discrimination on the basis of sex, not sexual harassment.

Does the state law require that employers have a written sexual harassment policy? No.

Other Information: Agreements-An employer shall not require an employee or a prospective employee to execute or renew a nondisclosure agreement with respect to sexual harassment in the workplace as a condition of employment. *Tenn. Code Ann. § 50-1-108.* Public school districts and other local education agencies are prohibited from entering into or requiring a nondisclosure agreement when settling any act of sexual misconduct, including sexual harassment or sexual assault. *Tenn. Code Ann. § 49-2-131.*

- TEXAS -

Is there a state law that prohibits sexual harassment in the workplace? Yes. *Tex. Lab. Code § 21.142.*

Does the state law define sexual harassment? Yes. *Tex. Lab. Code § 21.141.*

What employers does the state law cover? A person who employs one or more employees or acts directly in the interests of an employer in relation to an employee. *Tex. Lab. Code § 21.141.*

What employees does the state law cover? An individual employed by an employer, including an individual subject to the civil service laws of the state or a political subdivision of the state. *Tex. Lab. Code § 21.002(7).*

Does the state law provide for personal liability against a company leader/supervisor or just organizational liability? Unclear. Depends on how courts have interpreted employer portion of definition “person who ... acts directly in the interest of an employer in relation to an employee.” *Tex. Lab. Code § 21.141.*

Are there general exceptions? Employee does not include an individual elected to public office or a political subdivision of the state. <i>Tex. Lab. Code § 21.002(7)</i> .
Is there an anti-retaliation provision in the state law? Yes. <i>Tex. Lab. Code § 21.055</i> .
What is the state enforcement agency? Texas Workforce Commission.
Does the state law give the employee an immediate private right of action in court? No.
What is the state law's statute of limitations? 300 days. <i>Tex. Lab. Code §§ 21.201 & .202</i> .
Are the following types of damages and remedies available in the state law? 1. Equitable: Yes. <i>Tex. Lab. Code § 21.258</i> . 2. Compensatory: Yes*. <i>Tex. Lab. Code § 21.2585</i> . 3. Punitive: Yes*. <i>Tex. Lab. Code § 21.2585</i> . 4. Attorney Fees/Court Costs for Prevailing Party: Yes. <i>Tex. Lab. Code § 21.259</i> . *Total of 2 and 3 cannot exceed: -\$50,000 in the case of a respondent that has fewer than 101 employees; -\$100,000 in the case of a respondent that has more than 100 and fewer than 201 employees; -\$200,000 in the case of a respondent that has more than 200 and fewer than 501 employees; and -\$300,000 in the case of a respondent that has more than 500 employees. <i>Tex. Lab. Code § 21.2585</i> .
Does the state law require workplace sexual harassment training? If yes, of whom and how often? No. Except by state agencies; at time of hire and every two years. <i>Tex. Lab. Code § 21.010</i> .
Does the state law require employers to display notice to employees of sexual harassment protection? No.
Does the state law require that employers have a written sexual harassment policy? No.
Other Information

- UTAH -

Is there a state law that prohibits sexual harassment in the workplace? Yes. <i>Utah Code Ann. § 34A-5-106</i> .
Does the state law define sexual harassment? No. However, state enforcement agency guidelines provide a definition. <i>Utah Admin. Code § R606-1-2(J)</i> .
What employers does the state law cover? State; a political subdivision; a board, commission, department, institution, school district, trust, or agent of the state or a political subdivision of the state; or a person employing 15 or more employees within the state for each working day in each of 20 calendar weeks or more in the current or preceding calendar year. <i>Utah Code Ann. § 34A-5-102(1)(i)(i)</i> .
What employees does the state law cover? A person applying with or employed by an employer. <i>Utah Code Ann. § 34A-5-102(1)(h)</i> .

<p>Does the state law provide for personal liability against a company leader/supervisor or just organizational liability? Unclear. Depends on how courts have interpreted employer portion of definition “person.” <i>Utah Code Ann. § 34A-5-102(1)(i)(i)</i>.</p>
<p>Are there general exceptions? Employer does not include a religious organization, a religious corporation sole, a religious association, a religious society, a religious educational institution, or a religious leader, when that individual is acting in the capacity of a religious leader, any corporation or association constituting an affiliate, a wholly owned subsidiary, or an agency of any religious organization, religious corporation sole, religious association, or religious society, or the Boy Scouts of America or its councils, chapters, or subsidiaries. <i>Utah Code Ann. § 34A-5-102(1)(i)(ii)</i>.</p>
<p>Is there an anti-retaliation provision in the state law? Yes. <i>Utah Code Ann. §§ 34A-5-102(1)(y) & -106</i>.</p>
<p>What is the state enforcement agency? Utah Labor Commission, Utah Antidiscrimination and Labor Division.</p>
<p>Does the state law give the employee an immediate private right of action in court? No.</p>
<p>What is the state law's statute of limitations? 180 days. <i>Utah Code Ann. § 34A-5-107(1)(c)</i>.</p>
<p>Are the following types of damages and remedies available in the state law?</p> <ol style="list-style-type: none"> 1. Equitable: Yes. 2. Compensatory: Not mentioned*. 3. Punitive: Not mentioned*. 4. Attorney Fees/Court Costs for Prevailing Party: Yes. <i>Utah Code Ann. § 34A-5-107(8)(b)</i>. <p>*At the conclusion of the agency investigation, the UALD Director can award relief as determined appropriate. If the Director’s decision is appealed, the Administrative Law Judge can award relief that includes 1 and 4, but there is no wording limiting relief to just 1 and 4. <i>Utah Code Ann. § 34A-5-107(5)(b)(ii)(B) & (8)(b)</i>.</p>
<p>Does the state law require workplace sexual harassment training? If yes, of whom and how often? No. Except of state employees; at time of hire and every two years. <i>Utah Admin. Code § R477-15-6</i>.</p>
<p>Does the state law require employers to display notice to employees of sexual harassment protection? No.</p>
<p>Does the state law require that employers have a written sexual harassment policy? No.</p>
<p>Other Information</p>

– VERMONT –

<p>Is there a state law that prohibits sexual harassment in the workplace? Yes. <i>21 V.S.A. § 495d</i>.</p>
<p>Does the state law define sexual harassment? Yes. <i>21 V.S.A. § 495d(13)</i>.</p>

<p>What employers does the state law cover? Any individual, organization, or governmental body including any partnership, association, trustee, estate, corporation, joint stock company, insurance company, or legal representative, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee, or successor thereof, and any common carrier by mail, motor, water, air, or express company doing business in or operating within the state, and any agent of such employer, that has one or more individuals performing services for it within the state. <i>21 V.S.A. § 495d(1).</i></p>
<p>What employees does the state law cover? Every person who may be permitted, required, or directed by any employer, in consideration of direct or indirect gain or profit, to perform services. <i>21 V.S.A. § 495d(2).</i></p>
<p>Does the state law provide for personal liability against a company leader/supervisor or just organizational liability? Unclear. Depends on how courts have interpreted employer portion of definition “individual” and “agent of such employer.” <i>21 V.S.A. § 495d(1).</i></p>
<p>Are there general exceptions? No.</p>
<p>Is there an anti-retaliation provision in the state law? Yes. <i>21 V.S.A. § 495(a)(8).</i></p>
<p>What is the state enforcement agency? Vermont Attorney General’s Office and Vermont Human Rights Commission.</p>
<p>Does the state law give the employee an immediate private right of action in court? Yes. <i>21 V.S.A. § 495b.</i></p>
<p>What is the state law's statute of limitations? One year for state enforcement agency claim. <i>80-001 Code Vt. R. 80-250-001.</i> Six years for private court action. <i>12 V.S.A. § 511.</i></p>
<p>Are the following types of damages and remedies available in the state law?</p> <ol style="list-style-type: none"> 1. Equitable: Yes. 2. Compensatory: Yes. 3. Punitive: Yes. 4. Attorney Fees/Court Costs for Prevailing Party: Yes. <i>21 V.S.A. § 495b.</i>
<p>Does the state law require workplace sexual harassment training? If yes, of whom and how often? No.</p>
<p>Does the state law require employers to display notice to employees of sexual harassment protection? Yes. <i>21 V.S.A. § 495h(b), (c).</i></p>
<p>Does the state law require that employers have a written sexual harassment policy? Yes. <i>21 V.S.A. § 495h(b), (c).</i></p>
<p>Other Information: Agreements-An agreement to settle a claim of sexual harassment shall not prohibit, prevent, or otherwise restrict the employee from working for the employer or any parent company, subsidiary, division, or affiliate of the employer. <i>21 V.S.A. § 495h(h)(1).</i> An agreement to settle a sexual harassment claim shall expressly state that:</p> <ul style="list-style-type: none"> -it does not prohibit, prevent, or otherwise restrict the individual who made the claim from doing any of the following: (i) lodging a complaint of sexual harassment committed by any person with the Attorney General, a State’s Attorney, the Human Rights Commission, the Equal Employment Opportunity Commission, or any other state or federal agency; (ii) testifying, assisting, or participating in any manner with an investigation related to a claim of sexual harassment conducted by the Attorney

General, a State’s Attorney, the Human Rights Commission, the Equal Employment Opportunity Commission, or any other State or federal agency; (iii) complying with a valid request for discovery in relation to civil litigation or testifying in a hearing or trial related to a claim of sexual harassment that is conducted by a court, pursuant to an arbitration agreement, or before another appropriate tribunal; or (iv) exercising any right the individual may have pursuant to State or federal labor relations laws to engage in concerted activities with other employees for the purposes of collective bargaining or mutual aid and protection; and
 -it does not waive any rights or claims that may arise after the date the settlement agreement is executed. 21 V.S.A. § 495h(h)(2).

Agreements/Arbitration Limited-An employer shall not require any employee or prospective employee, as a condition of employment, to sign an agreement or waiver that prohibits, prevents, or otherwise restricts the employee or prospective employee from opposing, disclosing, reporting, or participating in an investigation of sexual harassment; or except as otherwise permitted by state or federal law, purports to waive a substantive or procedural right or remedy available to the employee with respect to a claim of sexual harassment. 21 V.S.A. § 495h(g).

- VIRGINIA -

Is there a state law that prohibits sexual harassment in the workplace? No. State law does not explicitly mention/prohibit sexual harassment. State law prohibits discrimination based on sex. *Va. Code Ann. § 2.2-3900.*

Does the state law define sexual harassment? No.

What employers does the state law cover? A person employing (i) 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year, and any agent of such a person, or (ii) one or more domestic workers. However, for purposes of unlawful discharge on the basis of race, color, religion, national origin, military status, sex, sexual orientation, gender identity, marital status, disability, pregnancy, or childbirth or related medical conditions including lactation, “employer” means any person employing more than five persons or one or more domestic workers. *Va. Code Ann. § 2.2-3905.*

What employees does the state law cover? An individual employed by an employer. *Va. Code Ann. § 2.2-3905.*

Does the state law provide for personal liability against a company leader/supervisor or just organizational liability? Unclear. Depends on how courts have interpreted employer portion of definition “person” and “agent of such a person.” *Va. Code Ann. § 2.2-3905.*

Are there general exceptions? No.

Is there an anti-retaliation provision in the state law? Yes. *Va. Code Ann. § 2.2-3905(B)(7).*

What is the state enforcement agency? Virginia Office of the Attorney General, Office of Civil Rights.

Does the state law give the employee an immediate private right of action in court? No.

What is the state law's statute of limitations? 180 days. *Va. Code Ann. § 2.2-522.*

Are the following types of damages and remedies available in the state law?

1. Equitable: Unclear.

2. Compensatory: Yes.

3. Punitive: Yes.

4. Attorney Fees/Court Costs for Prevailing Party: Yes. *Va. Code Ann. § 2.2-3908.*

Does the state law require workplace sexual harassment training? If yes, of whom and how often? No. Except of legislative employees; every two years. *Va. Code Ann. § 30-129.4.*

Except by state contractors with a contract of over \$10,000 and five or more employees; of supervisors and employees; annually during performance of contract. *Va. Code Ann. § 2.2-4201.*

Does the state law require employers to display notice to employees of sexual harassment protection? No.

Does the state law require that employers have a written sexual harassment policy? No.

Other Information: Agreements-Employers may not require an employee or prospective employee to execute or renew any provision in a nondisclosure or confidentiality agreement as a condition of employment that has the purpose or effect of concealing details relating to a sexual assault claim. *Va. Code Ann. § 40.1-28.01.*

- WASHINGTON -

Is there a state law that prohibits sexual harassment in the workplace? No. State law does not explicitly mention/prohibit sexual harassment. State law prohibits discrimination on the basis of sex. *RCW § 49.60.180.* However, sexual harassment appears to be encompassed within prohibited discrimination based on state enforcement agency website.

<https://www.hum.wa.gov/sites/default/files/public/publications/Sexual%20Harassment%20Brochure.pdf>

Does the state law define sexual harassment? No. However, state enforcement agency website provides a definition.

<https://www.hum.wa.gov/sites/default/files/public/publications/Sexual%20Harassment%20Brochure.pdf>

What employers does the state law cover? Any person acting in the interest of an employer, directly or indirectly, who employs eight or more persons. *RCW § 49.60.040(11).*

What employees does the state law cover? Not defined, except by exception-see exceptions.

Does the state law provide for personal liability against a company leader/supervisor or just organizational liability? Unclear. Depends on how courts have interpreted employer portion of definition “person acting in the interest of an employer, directly or indirectly.” *RCW § 49.60.040(11).*

Are there general exceptions? Employee does not include any individual employed by his or her parents, spouse, or child, or in the domestic service of any person. *RCW 49.60.040(10).*

Employer does not include religious or sectarian organizations not organized for private profit. *RCW § 49.60.040(11).*

Is there an anti-retaliation provision in the state law? Yes. *RCW § 49.60.210.*

What is the state enforcement agency? Washington State Human Rights Commission.

Does the state law give the employee an immediate private right of action in court? No.
What is the state law's statute of limitations? Six months. <i>RCW § 49.60.230.</i>
Are the following types of damages and remedies available in the state law? 1. Equitable: Yes. <i>RCW § 49.60.250(5).</i> 2. Compensatory: Yes*. <i>RCW § 49.60.250(5).</i> 3. Punitive: No. <i>WAC 162-08-298(5).</i> 4. Attorney Fees/Court Costs for Prevailing Party: Not mentioned. *2 cannot exceed \$20,000.
Does the state law require workplace sexual harassment training? If yes, of whom and how often? No. Except by hotel, motel, security, retail, security guard, and property services contractor companies that employ at least 1 person; every two years. <i>RCW § 49.60.515.</i>
Does the state law require employers to display notice to employees of sexual harassment protection? No.
Does the state law require that employers have a written sexual harassment policy? No.
Other Information: Agreements-A provision in an agreement by an employer and an employee not to disclose or discuss conduct, or the existence of a settlement involving conduct, that the employee reasonably believed under state, federal, or common law to be illegal discrimination, illegal harassment, or illegal retaliation is void and unenforceable. This new law does not apply to a nondisclosure or nondisparagement provision contained in an agreement to settle a legal claim. <i>2022 Engrossed Substitute House Bill 1795.</i> Arbitration Limited-A provision of an employment contract or agreement is against public policy and is void and unenforceable if it requires an employee to waive the employee's right to publicly pursue a cause of action arising under state or federal antidiscrimination laws or to publicly file a complaint with the appropriate state or federal agencies, or if it requires an employee to resolve claims of discrimination in a dispute resolution process that is confidential. <i>RCW 49.44.085.</i>

- WEST VIRGINIA -

Is there a state law that prohibits sexual harassment in the workplace? No. State law does not explicitly mention/prohibit sexual harassment. State law prohibits discrimination based on sex. <i>W. Va. Code § 5-11-9.</i> However, state enforcement agency regulations provide that harassment on the basis of sex is a violation of state employment antidiscrimination law. <i>W. Va. Code R. § 77-4-2.</i>
Does the state law define sexual harassment? No. However, state enforcement agency regulations provide a definition. <i>W. Va. Code R. § 77-4-2.</i>
What employers does the state law cover? The state or any political subdivision thereof, and any person employing 12 or more persons within the state for 20 or more calendar weeks in the calendar year when the discrimination took place. <i>W. Va. Code § 5-11-3(d).</i>
What employees does the state law cover? Not defined, except by exception-see exceptions.

<p>Does the state law provide for personal liability against a company leader/supervisor or just organizational liability? Unclear. Depends on how courts have interpreted employer portion of definition “person.” <i>W. Va. Code § 5-11-3(d)</i>.</p>
<p>Are there general exceptions? Employee does not include any individual employed by his or her parents, spouse, or child. <i>W. Va. Code § 5-11-3(e)</i>. Employer does not include private clubs. <i>W. Va. Code § 5-11-3(d)</i>.</p>
<p>Is there an anti-retaliation provision in the state law? Yes. <i>W. Va. Code § 5-11-9(7)</i>.</p>
<p>What is the state enforcement agency? West Virginia Human Rights Commission.</p>
<p>Does the state law give the employee an immediate private right of action in court? Yes. <i>W. Va. Code § 5-11-13(a)</i>.</p>
<p>What is the state law's statute of limitations? 365 days for state agency claim. <i>W. Va. Code § 5-11-10</i>. Two years for private court action <i>W. Va. Code § 55-2-12</i>.</p>
<p>Are the following types of damages and remedies available in the state law?</p> <ol style="list-style-type: none"> 1. Equitable: Yes. <i>W. Va. Code § 5-11-10 & -13(c)</i>. 2. Compensatory: Not mentioned*. 3. Punitive: Not mentioned. 4. Attorney Fees/Court Costs for Prevailing Party: Yes. <i>W. Va. Code § 5-11-13(c) & W. Va. Code R. § 77-2-9.3(c)</i>. <p>*Small amounts for “incidental damages” allowed; cap adjusted based on inflation. <i>W. Va. Code R. § 77-2-9.3(b)</i>.</p>
<p>Does the state law require workplace sexual harassment training? If yes, of whom and how often? No.</p>
<p>Does the state law require employers to display notice to employees of sexual harassment protection? No.</p>
<p>Does the state law require that employers have a written sexual harassment policy? No.</p>
<p>Other Information</p>

– WISCONSIN –

<p>Is there a state law that prohibits sexual harassment in the workplace? Yes. <i>Wis. Stat. §§ 111.321 & .36(1)(b)</i>.</p>
<p>Does the state law define sexual harassment? Yes. <i>Wis. Stat. § 111.32(13)</i>.</p>
<p>What employers does the state law cover? The state and each agency of the state and any other person engaging in any activity, enterprise, or business employing at least one individual. <i>Wis. Stat. § 111.32(6)(a)</i>.</p>
<p>What employees does the state law cover? Not defined, except by exception-see exceptions.</p>

<p>Does the state law provide for personal liability against a company leader/supervisor or just organizational liability? Unclear. Depends on how courts have interpreted employer portion of definition “person.” <i>Wis. Stat. § 111.32(6)(a)</i>.</p>
<p>Are there general exceptions? Employee does not include any individual employed by his or her parents, spouse, or child or any individual excluded under s. 452.38. <i>Wis. Stat. § 111.32(5)</i>. Employer does not include social club or fraternal society. <i>Wis. Stat. § 111.32(6)(b)</i>.</p>
<p>Is there an anti-retaliation provision in the state law? Yes. <i>Wis. Stat. § 111.322(3)</i>.</p>
<p>What is the state enforcement agency? Wisconsin Department of Workforce Development, Equal Rights Division.</p>
<p>Does the state law give the employee an immediate private right of action in court? No.</p>
<p>What is the state law's statute of limitations? 300 days. <i>Wis. Stat. § 111.39</i>.</p>
<p>Are the following types of damages and remedies available in the state law? 1. Equitable: Yes. 2. Compensatory: No. 3. Punitive: No. 4. Attorney Fees/Court Costs for Prevailing Party: Yes. https://dwd.wisconsin.gov/er/civilrights/fmla/remedies.htm</p>
<p>Does the state law require workplace sexual harassment training? If yes, of whom and how often? No.</p>
<p>Does the state law require employers to display notice to employees of sexual harassment protection? Yes. <i>Wis. Admin. Code DWD § 218.23</i>.</p>
<p>Does the state law require that employers have a written sexual harassment policy? No.</p>
<p>Other Information</p>

– WYOMING –

<p>Is there a state law that prohibits sexual harassment in the workplace? No. State law does not explicitly mention/prohibit sexual harassment. State law prohibits discrimination based on sex. <i>Wyo. Stat. § 27-9-105(i)</i>. However, harassment appears to be encompassed within prohibited discrimination based on intake questionnaire; aggrieved employee must file with state enforcement agency. https://dws.wyo.gov/wp-content/uploads/2022/07/GENERAL-INTAKE.pdf</p>
<p>Does the state law define sexual harassment? No.</p>
<p>What employers does the state law cover? The state or any political or board, commission, department, institution, or school district, and every other person employing two or more employees within the state. <i>Wyo. Stat. § 27-9-102(b)</i>.</p>
<p>What employees does the state law cover? Not defined.</p>

<p>Does the state law provide for personal liability against a company leader/supervisor or just organizational liability? Unclear. Depends on how courts have interpreted employer portion of definition “person.” <i>Wyo. Stat. § 27-9-102(b)</i>.</p>
<p>Are there general exceptions? Employer does not include religious organizations or associations. <i>Wyo. Stat. § 27-9-102(b)</i>.</p>
<p>Is there an anti-retaliation provision in the state law? No.</p>
<p>What is the state enforcement agency? Wyoming Department of Workforce Services, Labor Standards Office.</p>
<p>Does the state law give the employee an immediate private right of action in court? No.</p>
<p>What is the state law's statute of limitations? Six months. <i>Wyo. Stat. § 27-9-106(a)</i>.</p>
<p>Are the following types of damages and remedies available in the state law?</p> <ol style="list-style-type: none"> 1. Equitable: Yes. 2. Compensatory: Not mentioned. 3. Punitive: Not mentioned. 4. Attorney Fees/Court Costs for Prevailing Party: Not mentioned. <i>Wyo. Stat. § 27-9-106(n)(ii)</i>.
<p>Does the state law require workplace sexual harassment training? If yes, of whom and how often? No.</p>
<p>Does the state law require employers to display notice to employees of sexual harassment protection? No. Required poster only mentions discrimination on the basis of sex, not sexual harassment.</p>
<p>Does the state law require that employers have a written sexual harassment policy? No.</p>
<p>Other Information</p>

Appendix B: Summary of Federal and 50 State Harassment Laws

UWLP researchers began this project by conducting a federal and 50-state analysis of current federal and state workplace sexual harassment laws (see Appendix A). Data were collected by exploring sources based on answering 15 specific questions. To assist in identifying overall trends and illuminate comparables to Utah's law, this Appendix summarizes the results of each question, first noting federal/other state law results and then concluding with Utah results.

Question 1: Is there a law that prohibits sexual harassment in the workplace?

- Seventeen states (other than Utah) have such a law.
- The federal and 21 state antidiscrimination laws appear to prohibit workplace sexual harassment. While these laws do not mention sexual harassment, sources such as government agency regulations or websites do.
- Eight state antidiscrimination laws prohibit sex discrimination, but do not mention sexual harassment, nor do sources such as government agency regulations or websites.
- Three states have no applicable law.

UTAH: Utah's antidiscrimination law prohibits sexual harassment in the workplace.

Question 2: Does the law define sexual harassment?

- Of the 17 state laws (excluding Utah) that explicitly prohibit sexual harassment, 15 have defined sexual harassment either in the law or in government agency regulations.
- Of the federal and 21 state laws that appear to prohibit sexual harassment based on sources other than the antidiscrimination law, 15 provide a definition through their law or government agency regulations, guidelines, or websites.
- Eight state antidiscrimination laws do not mention sexual harassment and three states have no applicable law.

UTAH: Utah's government agency regulations define sexual harassment. The definition is identical to the federal government agency regulation's definition.

Question 3: What employers does the law cover?

- The federal law and laws of the 46 other states that have applicable laws (excluding Utah) cover private sector employers with the following number of employees: 1 (21 states), 2 (1 state), 3 (1 state), 4 (6 states), 5 (1 state), 6 (4 states), 8 (3 states), 9 (1 state), 12 (1 state), 15 (6 states and the federal government), and 20 (1 state).
- Many laws also cover state, county, and local government employers, often regardless of number.
- A few laws extend coverage to agents of another person/employer, contractors with government entities, and those employing domestic employees.

UTAH: Utah's antidiscrimination law covers persons employing 15 or more employees, as well as the state; a political subdivision; and a board, commission, department, institution, school district, trust, or agent of the state or a political subdivision of the state.

Question 4: What employees does the law cover?

- The federal law defines those protected by Title VII as “[a]n individual employed by an employer.”¹

¹ 42 U.S.C. § 2000e(b).

- Twenty-five state laws (excluding Utah) define those protected by their laws identically or similarly to the federal definition. Six of these add some connection to remuneration, pay, wages, or gain to the employee definition. One adds that full-time and part-time employees are covered.
- Fourteen state laws define those covered by the law only by exclusion.
- Seven state laws do not define those covered by the law.
- A few state laws extend coverage to people such as applicants, apprentices, unpaid interns, volunteers, and independent contractors.
- Three states have no applicable law.

UTAH: Utah’s antidiscrimination law protects a person applying with or employed by an employer.

Question 5: Does the law provide for personal liability against a company leader/supervisor or just organizational liability?

- Four state laws explicitly mention there is personal liability.
- Four state laws explicitly rule out personal liability.
- Three state laws do not mention the matter of personal liability.
- Under the federal law and the laws of 35 of the 46 other states that have applicable laws (excluding Utah), it is unclear whether personal liability exists because the definition of covered employers includes wording such as person, person acting in the interest of an employer, or agent of person/employer. Further review of applicable court decisions could alter this information.

UTAH: Utah’s antidiscrimination law is unclear as to whether personal liability against a company leader/supervisor exists because of the word “person” in the definition of covered employer, specifically “person employing 15 or more employees.” Person is defined to include “one or more individuals.”²

Question 6: Are there general exceptions?

- The federal law and the laws of 39 of the 46 other states that have applicable laws (excluding Utah) specify various exceptions to covered employers and employees, or to the application of the entire law.
 - Common exceptions to covered employers include the federal government, Indian Tribes, private clubs exempt from taxation, and religious entities.
 - Common exceptions to covered employees include politically elected or appointed officials, persons working in domestic service, persons employed by family, and independent contractors.
 - Similarly, exceptions to when the entire law applies include employment by religious entities, by family members, and in domestic service.
- The remaining seven state laws do not provide exceptions to covered employers and employees or to the application of the entire law.

UTAH: Utah’s antidiscrimination law specifies exceptions to covered employers. They do not include a religious organization, corporation sole, association, society, educational institution, or leader, when that individual is acting in the capacity of a religious leader; any corporation or association constituting an affiliate, a wholly owned subsidiary, or an agency of any religious organization, corporation sole, association, or society; or the Boy Scouts of America or its councils, chapters, or subsidiaries.

Question 7: Is there an anti-retaliation provision in the law?

- The federal law and the laws of 44 of the 46 other states that have applicable laws (excluding Utah) include an anti-retaliation provision.

² Utah Code Ann. § 34A-5-102(1)(i) & (t).

- The other two state laws do not include a retaliation provision.

UTAH: Utah’s antidiscrimination law includes an anti-retaliation provision.

Question 8: What is the enforcement agency?

- The federal government and 44 of the 46 other states that have applicable laws (excluding Utah) have a state enforcement agency.
- The other two states do not have enforcement agencies.³

UTAH: Utah has a state enforcement agency—the Utah Antidiscrimination and Labor Division (UALD) of the Utah Labor Commission.

Question 9: Does the law give the employee an immediate private right of action in court?

A private right of action means that a person can file a lawsuit in court for a violation of a particular law. Under the federal law, a person cannot file a sexual harassment lawsuit for a violation of Title VII immediately in court. The person must first file a charge of discrimination with the EEOC. The EEOC then notifies the employer of the charge. Next, the EEOC begins an investigation of the charge, collecting evidence from the claimant, the employer, and other relevant sources. At the beginning of the investigation, the EEOC often notifies the claimant and employer that they may voluntarily choose to mediate and settle the charge without completing the entire investigation. If mediation is successful, the charge is closed, and the claimant and employer carry out the settlement agreement terms. If not, the investigation continues.

At the end of the investigation, if the EEOC is unable to conclude there is reasonable cause to believe that harassment occurred, the claimant is issued a notice. This notice informs the claimant of the right to file a lawsuit in federal court within 90 days. Alternatively, if the EEOC determines there is reasonable cause to believe harassment has occurred, both parties are issued a letter stating this. This letter also invites them to work with the EEOC to resolve the charge through an informal process known as conciliation. If conciliation succeeds, the parties carry out the terms of the agreement. If it does not, the EEOC can file a lawsuit in federal court. If the EEOC decides not to litigate, the claimant will receive a notice and may file a lawsuit in federal court within 90 days.⁴ At various times throughout this process, the claimant can opt out and file a lawsuit in federal court.⁵

- Twenty-nine of the 46 other states that have applicable laws (excluding Utah) follow a similar process, requiring claimants to first file a charge with a state government agency for at least some amount of time before opting out to file a lawsuit in court.
- Fourteen states allow a sexual harassment claimant to file a lawsuit in court immediately, rather than first file a charge with the state government agency. An additional three states allow this in very limited circumstances.

UTAH: In Utah, claimants must first file a charge with the UALD. Utah’s antidiscrimination law does not provide a claimant with a private right of action in state civil court, even after going through the UALD process.

Question 10: What is the law's statute of limitations (SOL)?

- The federal SOL is 180 days to file a charge with the EEOC, which extends to 300 days if a state or local agency enforces a law that prohibits employment discrimination on the same basis.

³ One of the two states is North Carolina, which does not have an enforcement agency for charges by employees of private employers but does have one for employees of state and local government employees.

⁴ EEOC. (n.d.). What you can expect after a charge is filed. <https://www.eeoc.gov/employers/what-you-can-expect-after-charge-filed>

⁵ EEOC. (n.d.). Filing a lawsuit. <https://www.eeoc.gov/filing-lawsuit>

- The table below summarizes the SOLs for 45 of the 46 other states with applicable laws (excluding Utah). The law of the forty-sixth state, North Carolina, does not mention an SOL.

	Only Agency Charge Allowed	Immediate Private Right of Action Allowed	
		Same SOL for Agency Charge & Lawsuit	Different SOL for Agency Charge & Lawsuit ⁶
180 days	11 states		6 states/Agency charge
6 months	3 states	1 state	
300 days	8 states	3 states	1 state/Agency charge
365 days	1 state		1 state/Agency charge
1 year	2 states	1 state 1 state/Lawsuit only	1 state/Agency charge 2 states/Lawsuit
2 years	2 states		4 states/Lawsuit
3 years	1 state	1 state	1 state/Lawsuit
5 years		1 state	1 state/Lawsuit
6 years			1 state/Lawsuit
Total	28 states	8 states	9 states ⁷

UTAH: Utah’s SOL for filing a charge with the UALD is 180 days.

Question 11: Are the following types of damages and remedies available in the law?

- **Equitable remedies:** The goal of these remedies is to put claimants in the same position (or nearly the same position) they would have been if the sexual harassment had never occurred. Examples include hiring, reinstatement, promotion, and back pay/benefits.⁸
 - The federal law and the laws of 40 of the 46 other states with applicable laws (excluding Utah) allow equitable remedies.
 - Six state laws do not mention such remedies.
- **Compensatory damages:** These damages are monetary amounts awarded for future pecuniary losses, emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life, and other nonpecuniary losses.⁹ Under the federal law, compensatory damages are allowed, but are capped. The caps are laid out in the next group of bullets under the punitive damages section. Of the 46 other states with applicable laws (excluding Utah):
 - Sixteen allow compensatory damages and do not mention a cap, while another 14 allow compensatory damages, but place a cap.
 - Three do not allow compensatory damages.
 - Thirteen state laws do not mention compensatory damages, but further review of applicable court decisions could alter this information.
- **Punitive damages:** These damages are monetary amounts awarded when employers have engaged in harassment with malice or with reckless indifference (or other similar levels of egregious behavior) to the protected rights of an employee.¹⁰ Under the federal law, punitive damages are

⁶ Nine states allow both an agency charge and a lawsuit, but apply different, shorter SOLs to the agency charge. The chart shows the 9 states’ SOLs for the agency charges first, and then the 9 SOLs for the lawsuits.

⁷ See prior comment as to why the total is 9.

⁸ 42 U.S.C. § 2000e-5(g); <https://www.eeoc.gov/remedies-employment-discrimination>

⁹ 42 USC § 1981a.

¹⁰ 42 USC § 1981a.

allowed but compensatory and punitive damages are capped in combination as follows: for employers with 15-100 employees, the limit is \$50,000; for employers with 101-200 employees, the limit is \$100,000; for employers with 201-500 employees, the limit is \$200,000; for employers with more than 500 employees, the limit is \$300,000.¹¹ Of the 46 other states with applicable laws (excluding Utah):

- Nine allow punitive damages and do not mention a cap. Another 15 allow punitive damages, but place a cap.
 - Six do not allow punitive damages.
 - Sixteen state laws do not mention punitive damages. Further review of applicable court decisions could alter this information.
- **Attorney Fees/Costs for Prevailing Party:** The federal law allows prevailing parties in sexual harassment matters to recover attorney fees and costs.¹² Of the 46 other states with applicable laws (excluding Utah):
 - Thirty-three allow prevailing parties to recover attorney fees and costs. An additional state allows recovery of attorney fees subject to a cap.
 - One does not allow recovery of attorney fees. No mention is made of costs.
 - Eleven state laws do not mention attorney fees or costs. Further review of applicable court decisions could alter this information.

UTAH: Utah's antidiscrimination law allows the UALD Director, at the conclusion of an investigation of a charge, to order the employer to cease any prohibited employment practice and provide relief to the aggrieved party as the Director determines is appropriate.¹³ If that order is appealed, an Administrative Law Judge can order the employer to cease prohibited employment practices and provide relief to the aggrieved party. This relief can include reinstatement, back pay and benefits, attorney fees, and costs.¹⁴ The law does not explicitly mention compensatory or punitive damages.

Question 12: Does the law require workplace sexual harassment training? If yes, of whom and how often?

- Six states require sexual harassment training for employees and/or supervisors. An additional 12 states only require training for various types of government employees. One of these also requires training for state contractors. One final state requires training employees in particular industries like hotels and retail.
- The federal government and 27 of the 46 other states with applicable laws (excluding Utah) do not require sexual harassment training.

UTAH: Utah requires *state* employees to receive sexual harassment training at the time of hire and every two years thereafter.

Question 13: Does the law require employers to display notice to employees of sexual harassment protection?

- Nineteen of the 46 other states with applicable laws (excluding Utah) require employers to display a notice to employees of sexual harassment protections. Another state requires such a notice only to state employees. A final state requires such a notice only if the employer has 50 or more employees.
- The federal government and eleven states require employers to post a notice of sex discrimination protections, but the notice does not mention sexual harassment.

¹¹ 42 USC § 1981a.

¹² 42 USC 1988.

¹³ Utah Code Ann. § 34A-5-107(5)(b)(ii)(B).

¹⁴ Utah Code Ann. § 34A-5-107(5)(b)(ii)(B); § 34A-5-107(8)(b).

- Fourteen states do not require employers to post a notice of sex discrimination/sexual harassment protections.

UTAH: Utah does not require employers to display any notice to employees of sexual discrimination or harassment protections.

Question 14: Does the law require that employers have a written sexual harassment policy?

- Seven states require employers to have a written sexual harassment policy. Five more require policies in limited situations, such as for state employees, state contractors, employers with 50 or more employees, and employers in particular industries such as bars and restaurants.
- The federal government and 34 of the 46 other states that have applicable laws (excluding Utah) do not require employers to have written policies.

UTAH: Utah does not require employers to have a written sexual harassment policy.

Question 15: Do the laws include other sexual harassment protections? (Appendix A titles this as “Other Information”)

- Agreement Limitations: Fourteen of the 46 other states with applicable laws (excluding Utah) have enacted laws that restrict the use of nondisclosure agreements in connection with future or settled sexual harassment claims. Three of these states also prohibit agreements surrounding sexual harassment claims from containing provisions that the claimant cannot obtain future employment with the employer.
- Arbitration Limitations: Eight states prohibit employers from requiring pre-dispute arbitration agreements. As mentioned above, the federal law also prohibits such agreements.
- Income Tax Limitations: As mentioned above, the federal law prohibits income tax deductions for sexual harassment settlements or payments and related attorney fees if such settlements or payments are subject to nondisclosure agreements.
- Required Internal Complaints: One state declares that harassment is not illegal unless a complaint is filed with the appropriate authority at the complainant’s workplace and the authority fails to initiate a reasonable investigation of a complaint and take prompt remedial action if appropriate.
- Additional Persons Protected: Three states extend sexual harassment protections to others (independent contractors).
- Required Disclosures to Government: Two states require employers to make certain disclosures to government agencies.

UTAH: Utah’s antidiscrimination law does not include any of these other sexual harassment protections.