

Employment Law Update: New York Expands Whistleblower Law

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On October 28, 2021, Governor Kathy Hochul signed legislation expanding [New York's whistleblower law](#). The new law took effect on January 26, 2022. The amendment expands the protected individuals to include current employees, former employees, and independent contractors and makes additional changes further detailed below.

Protected Activity

The amended law will protect whistleblowers from retaliation if they disclose or threaten to disclose a policy or practice of the employer that the employee reasonably believes violates a law, rule, or regulation, which greatly expands the law's coverage. Previously, the law only protected whistleblowers from retaliation if they complained about an actual violation of law and the violation presented a "substantial and specific danger to the public health and safety."

Employees will also no longer be required to give employers a reasonable opportunity to correct any alleged violation and instead are only required to make a "good faith effort" to notify the employer of the violation before disclosing it to a public body. However, no notice is required if the employee reasonably believes reporting the violation would be futile or it will result in the destruction of evidence, or harm to the employee.

Prohibited Retaliatory Actions

Additionally, the amendment expands the forms of prohibited retaliation. Employers cannot take adverse employment action against whistleblowers, such as termination or suspension; threaten a former employee's current or future employment; or contact or threaten to contact immigration authorities to report an employee or a family member.

Takeaway: New York employers should be aware of these new whistleblower protections and consider updating their policies and handbooks. Employers with questions about the Whistleblower Law and implementation of practices to stay compliant can contact [Tracy Armstrong](#) or another member of the Wilentz [Employment Law](#) Team.

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