

## PROTECTIONS FOR INDEPENDENT CONTRACTORS & FREELANCERS FROM DISCRIMINATION AND HARASSMENT

Starting January 11, 2020, all independent contractors and freelancers are protected from employment discrimination and harassment under the City Human Rights Law.<sup>1</sup> This also means that independent contractors and freelancers have the right to receive reasonable accommodations for needs related to disabilities, pregnancy, lactation, religious observances, and status as victims of domestic violence, sexual offenses, or stalking. For more information about all of the protections under the City Human Rights Law, visit [NYC.gov/HumanRights](http://NYC.gov/HumanRights).

### Is there a difference between the classification of “freelancer” and “independent contractor” for the purposes of protections under the City Human Rights Law?

No, all of these workers enjoy the same protections under the City Human Rights Law. It does not matter what word you, or the person or entity that hired you, use to refer to you.

### How do I know if I’m an independent contractor or freelancer?

In most cases, if you are doing work for an employer and are not an employee, you are an independent contractor or freelancer. You enjoy the same rights under the City Human Rights Law regardless of whether you have a formal contract, regardless of how often, if ever, the work requires you to be on-site, and whether it is a short-term or long-term relationship.

### Are employers required to have their independent contractors complete annual sexual harassment prevention training?

Yes. Similar to employees and interns, if an independent contractor works for an employer of 15 or more people<sup>2</sup> and works:

- more than 80 hours in a calendar year *and*
  - for at least 90 days (does not need to be consecutive),
- then the individual *must* be trained. If an independent contractor worked less than 90 days or less than 80 hours in a calendar year, they do not need to be trained.

Individuals who must be trained do not need to take the training at each workplace where they work over the course of a year. Independent contractors and freelancers may provide proof of completion of one sexual harassment prevention training to multiple workplaces and need not repeat the training at multiple workplaces.

### What is an employer's liability for the acts of an independent contractor or freelancer?

Employers will be liable for discriminatory acts committed by independent contractors and freelancers if the conduct occurred in the course of the independent contractor’s or freelancer’s work for the employer *and* the employer had actual knowledge of the discriminatory behavior and acquiesced in such conduct, by, for example, failing to take steps to stop the conduct.

<sup>1</sup> Amending N.Y.C. Admin. Code § 8-107(23) (“The protections of this chapter relating to employees apply to interns, freelancers and independent contractors.”).

<sup>2</sup> Other training requirements exist under New York State Law.

**Where a person hires an independent contractor through an app or platform to provide services (e.g., cleaning or driving services), does the app or platform have legal obligations under the City Human Rights Law?**

Yes. Apps and platforms may be liable if they directly engage in discrimination against an independent contractor who uses their platform. They may also be liable if a customer who uses their platform to hire an independent contractor engages in unlawful discrimination if the app or platform knew or should have known about the discrimination and fails to take any action to address it, by, for example, failing to prohibit a customer who is known to harass independent contractors from using the platform.

If you believe you have been subjected to unlawful discrimination as an independent contractor or freelancer, please contact the Commission at 311 and ask for “Human Rights.”