



Illinois Releases Model Mandatory Sexual Harassment Training For Employers

Insights

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After a long wait, the Illinois Department of Human Rights (IDHR) recently published its model sexual harassment prevention training. This model training relates to the recent amendments and expansions of the Illinois Human Rights Act (IHRA) — the state’s anti-discrimination and anti-harassment statute. These amendments put into place strict anti-harassment policy and training requirements for employers. Accordingly, you need to be ready to ensure that your anti-harassment policies and training complies with the IHRA’s new requirements and IDHR’s model training.

A Primer On Illinois Anti-Harassment Training Requirements

In 2019, the Illinois legislature amended the IHRA in a number of ways. Effective January 1, 2020, Illinois employers are now required to provide sexual harassment training to all employees on an annual basis. Despite the requirement having gone into effect at the beginning of the year, the IDHR only recently published its model anti-harassment training program that can be used in addition to an employer’s existing training program.

While you are not required to utilize the IDHR’s model training, any training must, at a minimum, addresses the following:

- **An IHRA-consistent explanation of sexual harassment.** Generally, the IHRA notes that sexual harassment means any unwelcome sexual advances, requests for sexual favors, or any conduct of a sexual nature when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s employment (e., quid pro quo, or “this for that”); (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or (3) such conduct has the purpose or effect of substantially interfering with an individual’s work performance or creating an intimidating, hostile or offensive working environment. This definition further prohibits harassment based upon an individual’s actual or perceived gender identity or sexual orientation.
- **Examples of conduct that constitutes unlawful sexual harassment.** Such examples may include (but are not limited to) pressure for sexual favors or to go out on a date, deliberate touching, leaning over, or cornering another person. Examples of unlawful harassment may also extend beyond the physical workspace and into the online arena on social media and other online platforms.

- **A summary of relevant federal and state statutory provisions concerning sexual harassment, including remedies available to victims of sexual harassment.** These include reporting options for employees, which may constitute notifying the employer, the IDHR, the Equal Employment Opportunity Commission (EEOC), or the newly created Illinois Sexual Harassment and Discrimination Helpline. In this regard, the IDHR's model anti-harassment training program also explains the potential positive outcomes for prevailing in a harassment claim against an employer (e., lost wages, emotional distress damages, attorneys' fees, etc.).
- **A summary of employers' responsibilities in preventing, investigating, and correcting alleged sexual harassment.** In furtherance of this, the IDHR model anti-harassment training explains the difference in employer obligations between (1) harassment by a supervisor and (2) harassment by coworkers and nonemployees (e., vendors, customers, etc.). In Illinois, employers may be automatically liable for harassment by supervisors, even if the company's executive management was not aware of the alleged conduct. For harassment by coworkers and nonemployees, employers are generally liable if they were aware of the alleged conduct and failed to act appropriately under the circumstances.

Of note, bars and restaurants in Illinois are subject to additional anti-harassment training requirements. For example, employees in the bar and restaurant industries need to receive supplemental, industry-specific training and policies that are available in both English and Spanish. These include, but are not limited to, an explicit prohibition on sexual harassment, an explanation of manager liability and responsibility, and contact information for the IDHR and EEOC. However, the IDHR has not provided separate model training for bars and restaurants.

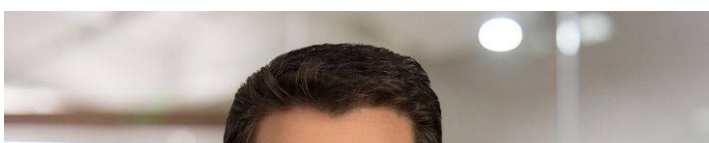
Next Steps For Employers

For your review, the IDHR's [model Sexual Harassment Prevention Training program is available at this link](#). Although this program is a model, it may extend beyond the exact requirements of the IHRA in some areas. Fisher Phillips is pleased to offer training to your Illinois employees in a manner that is compliant with applicable law and can review all policies and procedures that may be affected by the recent changes to the IHRA.

If you have any questions, please contact your Fisher Phillips attorney or any attorney in [the firm's Chicago office](#).

This Legal Alert provides an overview of a specific state law. It is not intended to be, and should not be construed as, legal advice for any particular fact situation.

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Craig R. Annunziata
Regional Managing Partner
312.346.8061
[Email](#)



Scott Fanning
Partner
312.346.8061
[Email](#)



Franklin Z. Wolf
Partner
312.580.7807

Email

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