

CHICAGO EMPLOYERS SHOULD PREPARE FOR EXPANDED WORKPLACE ANTI-HARASSMENT REQUIREMENTS

Insights
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Employers should review their harassment prevention and training policies in light of recent amendments to the Chicago Human Rights Ordinance that create new obligations for employers in the city starting on July 1. What do employers need to know about the new rules and how they impact the workplace?

Review Policies for Compliance

Similar to its state and federal counterparts, the Chicago Human Rights Ordinance prohibits various forms of discrimination, harassment, and retaliation in the workplace. In addition to barring sexual harassment, the ordinance further notes that discrimination is prohibited on the basis of race, color, sex, gender identity, age, religion, disability, national origin, ancestry, sexual orientation, marital status, parental status, military status, credit history, criminal record or criminal history, and source of income.

What is required under the new amendments? As a starting point, you should review and update your anti-harassment policies by July 1, and you should provide such policies to employees during their first week of employment. Under the amended ordinance, employers' policies must include the following:

- The ordinance's definition of sexual harassment;
- Examples of what constitutes sexual harassment;
- A statement that sexual harassment is illegal in Chicago;

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- A statement that employees are required to attend annual training against sexual harassment;
- The means through which an employee can report alleged sexual harassment to the employer;
- Information about legal services and governmental agencies that are available to aid alleged victims of sexual harassment; and
- A statement that retaliation for reporting alleged sexual harassment is illegal in Chicago.

As noted above, employees are required to undergo annual harassment prevention training. Non-management employees are required to attend one hour of training annually and managerial or supervisory employees are required to attend two hours of training annually. Further, all employees are required to undergo one hour of “bystander” training each year. While the Chicago City Council has noted that the Illinois anti-harassment training template will suffice for the city’s anti-harassment training requirements, the city expects to make available a training module for “bystander” training by July 1. For the first year, employees must be trained by June 30, 2023.

Your notice and recordkeeping requirements will also change under the amendments. Employers will need to display posters from the Chicago Human Relations Commission – in English and Spanish – in common and community areas of the workplace. Additionally, employers now have an obligation to retain all records of policies, trainings, and evidence of their compliance with the ordinance for a minimum of five years or the duration of any claim, civil action, or investigation (whichever is longer). According to the ordinance, failure to do so will create a rebuttable presumption of noncompliance, which may be overcome if the employer provides clear and convincing evidence of compliance.

Steeper Potential Penalties

You should note that employees seeking to file a claim with the Chicago Human Relations Commission will have 365 days to do so instead of the previous 300 days, leading to a longer period during which employers may face legal claims. Moreover, should an employee file a claim of sexual harassment under the ordinance, the commission now has

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30 days (rather than 10) to send the employer notice of the claim. These changes mean an employer may not learn of harassment allegations until more than a year after the alleged occurrence, making evidence preservation increasingly difficult.

Compliance is paramount, as the amendments also increase the potential penalties. Under the previous version of the ordinance, employers could face penalties of \$500 to \$1,000 for each alleged violation. Under the amendments, potential damages have increased tenfold to \$5,000 to \$10,000 per alleged violation. Clearly, these increased penalties are intended to incentivize compliance, and employers should take notice.

What Should You Do?

You should review the amendments to the Chicago Human Rights Ordinance and ensure your policies, training programs, and notice and recordkeeping practices comply with the new provisions. The changes referenced in this article are not the only changes to the ordinance, so you should consult with appropriate legal counsel as to all business adjustments that may be necessary.

We will continue to monitor any further developments and provide updates on these and other labor and employment issues affecting employers, so make sure you are subscribed to [Fisher Phillips' alert system](#) to gather the most up-to-date information. If you have questions, please contact your Fisher Phillips attorney, the authors of this Insight, or any attorney in [our Chicago office](#).