

## THOUGHT LEADERSHIP

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LEGAL UPDATES

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# Illinois Department of Human Rights Releases Sexual Harassment Training Program

## Key Points

Illinois released their model sexual harassment training program for use by employers free of charge to provide training to all employees who work or will work in Illinois or who work on a regular basis with Illinois employees.

Employers may use either the IDHR's model prevention program or their own program that meets or exceeds IDHR requirements and must train all employees by December 31, 2020, and annually thereafter.

Employers are tasked with maintaining a record of compliance. Failure to train employees consistent with the mandates of the statute subjects the employer to civil penalties.

The Illinois Department of Human Rights (IDHR) has released their sexual harassment prevention training program as required by the Workplace Transparency Act (WTA), legislation that strengthens Illinois discrimination and harassment laws. Under the WTA, every employer with employees who work in Illinois is required to provide employees with sexual harassment prevention training by December 31, 2020 and on an annual basis thereafter. Employers may use either the training program developed by the IDHR free of charge or develop their own sexual harassment prevention program that equals or exceeds the minimum standards set forth in §2-109(B) of the Illinois Human Rights Act (IHRA). The training program can be downloaded in a power point or PDF format [here](#).

## **Training**

To comply with the IHRA, sexual harassment training programs must include, at a minimum, the following information:

An explanation of sexual harassment consistent with the IHRA;

Examples of conduct that constitutes unlawful sexual harassment;

A summary of relevant federal and state statutory provisions concerning sexual harassment, including remedies available to victims of sexual harassment; and

A summary of responsibilities of employers in the prevention, investigation, and corrective measures of sexual harassment.

Employers are required to train all employees, including short-term and part-time employees, and interns who work or will work in Illinois. The mandate includes employees based elsewhere but who regularly interact with employees in Illinois. Employees also must either retrain new employees or obtain proper documentation that the new employee has received the mandatory training at their previous place of employment. Employers are responsible for ensuring that all employees receive the sexual harassment prevention training annually and that the training is accessible to employees with disabilities or who speak a language other than English.

## **Record of compliance**

A record of compliance must be maintained on the premises of the workplace and available for inspection by the IDHR. The record of training may be paper- or electronic-based and should include the following information:

The names of employees trained,

The date of training,

The sign-in worksheets,

Copies of certificates of participation issued, and

A copy of all written or recorded materials that comprise the training as well as the name of the training provider, if applicable.

## **Bars and restaurants**

Bars and restaurants must not only provide the sexual harassment prevention training as required under §2-109(B) of the IHRA, but also must provide supplemental training that complies with §2-110 of the IHRA. The IDHR plans to release a supplemental training program in the near future. Bars and restaurants may either use the IDHR supplemental training program or develop their own sexual harassment training program that equals or exceeds the minimum standard set forth in §2-110.

### **Penalties for non-compliance**

Employers which fail to comply with the training requirements will be subject to a show cause notice giving the employer 30 days to comply with the order which may be extended at the discretion of the IDHR.

Civil penalties may be imposed for continued non-compliance based on the number of employees, the good faith efforts of the employer to comply, and the severity of the offense. For employers with less than four employees, the employer is subject to penalties of up to \$500 for the first offense, \$1,000 for the second offense, and \$3,000 for the third and subsequent offenses.

For employers with more than four or more employees, penalties will not exceed \$1,000 for the first offense, \$3,000 for the second offense, and \$5,000 for the third and subsequent offense.

### **Contact us**

If you have further questions or require more information regarding this update, please contact Anne Mayette or your Husch Blackwell attorney.

*Tracey Oakes O'Brien, Knowledge Manager, is a co-author of this article.*