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NEW SEXUAL HARASSMENT PREVENTION REQUIREMENTS FOR CHICAGO EMPLOYERS

The City of Chicago recently amended the Chicago Human Rights Ordinance to significantly increase workplace sexual harassment prevention requirements for employers in Chicago. The new requirements are designed to enhance sexual harassment protections and require Chicago employers to provide additional sexual harassment prevention training beyond what the State of Illinois requires. The amendments go into effect on July 1, 2022 and apply to all employers, with at least one employee, that (i) are subject to Chicago licensing requirements, or (ii) maintain a business facility within the city limits. While these are new legal requirements for employers, the changes are primarily directed at preventing sexual harassment by requiring the implementation of certain employer compliance measures and do not substantially alter existing law or legal precedent on employer liability for sexual harassment.

Expanded Definition of Sexual Harassment. The definition of “sexual harassment” has been broadened to also expressly include sexual misconduct. “Sexual misconduct” means any behavior of a sexual nature which also involves coercion, abuse of authority, or misuse of an individual’s employment position. This is broader than the definition of sexual harassment under the Illinois Human Rights Act. Guidance from the Chicago Commission on Human Rights (the “Commission”) provides the following non-exhaustive illustrations of the type of conduct prohibited under the new sexual harassment law: “Unwelcome conduct of a sexual nature such as pressuring an employee for sexual favors or to go out on a date, deliberately touching, leaning over, or cornering another person, sexual looks or gestures or whistling at someone, sending letters, telephone calls, e-mails, texts, or other materials of a sexual nature, or sexual teasing, jokes, remarks, or questions.”

Written Policy Required. As of July 1, 2022, all Chicago employers must have a written sexual harassment policy. The written policy must include the following: (i) a statement that sexual harassment is illegal in Chicago; (ii) the definition of sexual harassment; (iii) a requirement that all employees participate in annual sexual harassment prevention and bystander training; (iv) examples of prohibited conduct that constitute sexual harassment; (v) guidance on how to report sexual harassment to the employer; (vi) information on legal services available to victims of sexual harassment; and (vii) a statement that retaliation for reporting sexual harassment is prohibited and illegal in Chicago. Additionally, employers must display a poster in the workplace that advises employees of the prohibition on sexual harassment.

Required Annual Training. All Chicago employers must provide the following training each year: (i) one hour of sexual harassment prevention training for all employees; (ii) two hours of sexual harassment prevention training for supervisors and managers; and (iii) one hour of bystander intervention training for all employees. The required training must be provided prior to July 1, 2023, and on an annual basis thereafter.

The one hour training for all employees mirrors the requirement for all Illinois employers under the Illinois Human Rights Act, and the Commission has provided guidance indicating that Chicago employers can use the existing training template published by the Illinois Department of Human Rights for purposes of complying with the one-hour training requirement for all employees. Further guidance by the Commission indicates that the required training for supervisors and managers constitutes one additional hour of training beyond that which all employees must receive. The Commission has published new training templates for employers to use to satisfy the additional one-hour training requirement for supervisors and managers and the one-hour bystander intervention training for all employees. The training templates can be found on the Commission's website, here: [Training Templates](#)

Extended Deadline for Complaints. The amended ordinance significantly provides that employees now have 365 days – increased from 300 days – to file a complaint with the Commission alleging all forms of discrimination including sexual harassment.

Increased Monetary Penalties. The amendments increase the potential penalties to which employers are subject from \$500-\$1,000 to \$5,000-\$10,000 per violation of any type of discrimination. Employers who fail to develop a written sexual harassment policy, fail to post the notice on sexual harassment, or fail to conduct annual sexual harassment prevention and bystander intervention training are subject to a fine of \$500-\$1,000 for each offense.

Implications for Employers

- Chicago employers should note that having a written sexual harassment policy is a new legal requirement given that the Illinois Human Rights Act only requires bars and restaurants to have such written policies.
- The required bystander intervention training is a unique requirement under the amended Chicago law and seeks to train employees to spot and intervene in sexual harassment while it is happening but does not create any new legal obligations or liability for the employer outside of having to provide the training.
- Increasing the filing deadline to 365 days is significant because it is longer than the 300-day filing deadline for discrimination and harassment claims with the Equal Employment Opportunity Commission (federal law) or the Illinois Department of Human Rights (Illinois law).

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