

Chicago City Council Expands Sexual Harassment Provisions

By Michael Brohman

Employers who maintain business facilities within the geographic boundaries of the City of Chicago and/or who are subject to one or more of the City's license requirements should be aware of recent amendments to the sexual harassment aspects of the Chicago Human Rights Ordinance, which amendments take effect on July 1, 2022.

Previously, the Ordinance defined sexual harassment to include unwelcome sexual advances, requests for sexual favors or conduct of a sexual nature as a condition of an individual's employment, or employment decisions based on an employee's submission or rejection of such conduct. The amendments broaden that definition to include unwelcome conduct of a sexual nature, as well as sexual misconduct, which is defined as "any behavior of a sexual nature which also involves coercion, abuse of authority, or misuse of an individual's employment position."

The amended Ordinance also requires all employers to have a written policy document prohibiting sexual harassment. In this regard, employers are required to create one policy document in English and another in Spanish, and must display these documents in at least one location where employees commonly gather. For employees whose primary language is other than English or Spanish, an employer must provide the employee with a written policy in those employees' primary language within the first calendar week of the employees' employment.

The employers' written policy document must include (1) a notification to employees that sexual harassment is illegal in Chicago; (2) the Ordinance's definition of sexual harassment; (3) a requirement that all employees participate in annual sexual harassment training, with regular employees being required to participate in a minimum of one hour of training annually and with supervisory or managerial employees being required to participate in a minimum of two hours of training annually; (4) examples of the kinds of conduct that constitute prohibited sexual harassment; (5) details on how an employee can make a confidential report of sexual harassment to a manager, to a human resources department or to another company internal reporting mechanism; (6) details on legal services, including governmental services, that are available to employees who may be victims of sexual harassment; and (7) a statement that it is illegal for an employer to retaliate against an employee who reports sexual harassment.

To assist employers with written policy documents, the City will post sample policy documents on the City's website. Those sample documents will include policies written in English, Spanish and other languages. To assist employers in providing sexual harassment training to their employees, the amended Ordinance provides that employers may use the training programs offered by and through the State of Illinois Department of Human Rights. The City's website will also identify other acceptable programs.

The amended Ordinance made two other changes of significance. First, it increases the period of time by which an employee can file a claim for sexual harassment to 365 days from the date of the incident (previously the claim had to be filed within 300 days). Second, it increased fines for violations of the

ordinance to between \$5,000.00 and \$10,000.00 for each violation (previously the fine range was between \$1,000.00 to \$5,000.00 per violation).

As noted, the amended Ordinance takes effect July 1, 2022, meaning that employers must begin their notification obligations by that date and that employees must complete their first year of harassment training by June 30, 2023. Employers will be required to retain written records that show compliance with the Ordinance, including records of training sessions provided to employees.

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