

## **Alert** | Labor & Employment



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### **Illinois Workplace Harassment Training Deadline Fast-Approaching**

New to 2020, Illinois employers of all sizes must conduct sexual harassment prevention training by Dec. 31. This training requirement is part of the [Illinois Workplace Transparency Act](#), which requires employers to provide workplace harassment training to all employees at least once a year.

**The training must include, at a minimum:**

1. An explanation of sexual harassment as defined by the Illinois Human Rights Act (IHRA);
2. Examples of unlawful sexual harassment;
3. A summary of relevant federal and state statutes, including remedies available; and
4. A summary of the employer's responsibilities to prevent, investigate, and correct occurrences of sexual harassment.

### Bars and Restaurants

Bars and restaurants have a larger obligation to create a training program that is tailored to the industry. At a minimum, in addition to the training requirements described above, trainings for bars and restaurants must include:

1. Specific conduct, activities, or videos related to the restaurant or bar industry;
2. An explanation of manager liability and responsibility; and
3. Options for training in English and Spanish.

Restaurants and bars must also establish and distribute a written policy on sexual harassment prevention to all employees.

### Recordkeeping

Companies are required to keep a record of all trainings including, for example, the employee's written acknowledgement of training completion, the date of the training, and by whom the training was conducted. The Illinois Department of Human Rights (IDHR) provides that the record may be a certificate or a signed employee acknowledgement/course sign-in. Records must be maintained and available for the IDHR upon request.

### Compliance Violations

While there is no private right of action available for failure to conduct the required training, the IDHR can issue a notice to show cause, providing the employer 30 days to comply with the training requirements. If the employer fails to comply with the training requirements, the Illinois Human Rights Commission may assess civil penalties as follows:

- Employers with fewer than four employees:
  1. up to \$500 for the first offense;
  2. up to \$1,000 for the second offense; and
  3. up to \$3,000 for three or more offenses.
- Employers with four or more employees:
  1. up to \$1,000 for the first offense;
  2. up to \$3,000 for the second offense; and
  3. up to \$5,000 for three or more offenses.

### Takeaways

The Equal Employment Opportunity Commission estimates that 25% to 85% of working women have experienced sexual harassment on the job. The Illinois Workplace Transparency Act explains, “[o]rganizational tolerance of sexual harassment has a detrimental influence in workplaces by creating a hostile work environment ... reducing productivity, and increasing legal liability.”

Against this backdrop, the IDHR created training materials that comply with the above legal requirements. While these materials are better than nothing, there is no substitute for dynamic, non-legal, and tailored trainings that present these important topics in relatable terms. Beyond legal requirements, implementing policies and training programs that promote safe and inclusive workplaces often:

1. **maximizes** employee engagement, satisfaction, productivity, and retention; and
2. **minimizes** risk of lawsuits, reputational harm, employee absenteeism, and turnover.

Employers should work with experienced legal counsel to conduct employment trainings to ensure compliance with the Illinois Workplace Transparency Act.

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