

Alert | Labor & Employment



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Chicago Amends Its Sexual Harassment Ordinance

The Chicago City Council enacted amendments to the City’s Human Rights Ordinance that take effect July 1, 2022. The amendments:

- Expand the definitions of the sexual harassment and sexual orientation;
- Require new written policy and notice content;
- Require more extensive harassment training;
- Establish a longer statute of limitations for employees to file complaints under the City’s Human Rights Ordinance and a longer period for the Commission to notify employers of such complaints; and
- Impose new penalties for failing to comply with notice, posting, and training requirements and steeper penalties for remaining provisions of violating the Human Rights Ordinance.

The City’s Ordinance applies to companies employing at least one employee within the city. Therefore, the amendments apply to virtually every Chicago employer.

Expanded Definition of Sexual Harassment

The definition of prohibited sexual harassment is expanded to include the new content below in italics:

“Sexual harassment” means any unwelcome sexual advances or *unwelcome conduct of a sexual nature*; or (ii) requests for sexual favors or conduct of a sexual nature when submission to such

conduct is made either explicitly or implicitly a term or condition of an individual's employment or (2) submission to or rejection of such conduct by an individual is used as the basis for any employment decision affecting the individual; or (3) such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment; or (iii) *sexual misconduct, which means any behavior of a sexual nature which also involves coercion, abuse of authority, or misuse of an individual's employment position.*

Expanded Definition of Sexual Orientation

The definition of sexual orientation is expanded to read as follows:

“Sexual orientation” means ~~the actual or perceived state of heterosexuality, homosexuality or bisexuality~~ a person's actual or perceived sexual and emotional attraction, or lack thereof, to another person.

The Ordinance prohibits discrimination because of an employee or applicant's sexual orientation.

Required Written Sexual Harassment Prevention Policy and Notice

All Chicago employers must have a written policy on sexual harassment. The policy must include:

- A statement that sexual harassment and retaliation is illegal;
- The definition of sexual harassment;
- Examples of prohibited sexual harassment;
- Instructions on how to report sexual harassment within the company;
- Information regarding legal services available to employees who believe they were subject to sexual harassment; and
- Notice that all employees must participate in sexual harassment prevention and bystander training on an annual basis. Bystander training is intended to encourage employees to recognize, intervene, and show empathy in situations involving sexual harassment.

Employers must provide the policy to employees in their primary language within their first week of work. Employers must also display the city's model poster at the workplace.

Required Annual Training

Chicago employers must provide employees with training on an annual basis as follows:

- **Non-management and supervisory employees:** one hour of sexual harassment prevention training and one hour of bystander training.
- **Management and supervisory employees:** two hours of sexual harassment training and one hour of bystander training.

Longer Periods to File a Complaint and for the Commission to Notify the Employer of a Complaint Filed Against the Company

The amendments lengthen the time for filing a discrimination, sexual harassment, or retaliation complaint with the city's Commission on Human Relations from 300 to 365 days.

The amendments provide the Commission 30 days to notify employers of a sexual harassment complaint filed against the company. According to the Human Rights Ordinance, the Commission has 10 days to notify employers of other complaints of harassment, discrimination, or retaliation.

Penalties

The Commission has the authority to issue fines between \$500 and \$1,000 for an employer's failure to comply with the sexual harassment policy requirements, provide the required trainings, or display the required posters. Every day a violation continues is considered a separate offense for purposes of calculating penalties.

The amendments also increase the penalty for violations of the Human Rights Ordinance, with the exception of the violations carved out above, to between \$5,000 and \$10,000 for each offense. These penalties are in addition to civil remedies that may be available to a complainant, such as damages and attorney's fees.

Conclusion

Chicago employers may wish to review their discrimination, harassment, and retaliation prevention policies for compliance with the Ordinance's new requirements and take steps to ensure compliance with the training, posting, and recordkeeping requirements.

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