



News & Types: Client Advisories

Time's Running Out – Have You Conducted Anti-Harassment Training?

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Practices: Employment, Labor & Benefits

EXECUTIVE SUMMARY

Time is running out! By December 31, 2020, every company with employees in Illinois must present a training program that addresses sexual harassment. The Illinois Workplace Transparency Act requires the training, directed the Illinois Department of Human Rights to develop a model program, and gave the Illinois Human Rights Commission the power to issue a fine against a company that does not provide the training.

December 31, 2020 is the deadline to comply with the Illinois Workplace Transparency Act's requirement to provide anti-sexual harassment training. The requirement applies to all companies, even those with only one employee. The training must include an explanation of sexual harassment, examples of conduct that constitutes unlawful sexual harassment, a summary of state and federal laws regarding sexual harassment and remedies, and the responsibilities of managers and supervisors to prevent, investigate and implement corrective measures.

The training must include at least those topics covered in the model sexual harassment prevention program published by the Illinois Department of Human Rights. However, companies may create their own program that equals or exceeds the minimum standards. Most law firms, including Masuda Funai, recommend that the training exceed the minimum requirements. For example, the model program centers the training on sexual harassment. In our experience, many companies must investigate and correct harassment based upon race, national origin, religion and age. In addition, we recommend separate programs for employees and supervisors, because supervisors have special responsibilities to prevent, investigate and implement corrective measures. Training should also include topics such as implicit bias, bystander harassment, and that complaints may be made in writing or orally.

According to the Workplace Transparency Act, if a company does not provide the yearly training, the Department of Human Rights will issue a notice to show cause. The company will have 30 days to comply. If the company does not comply, the Illinois Human Rights Commission may enter an order and impose a civil penalty. In addition, many lawyers predict that the Department will demand to see the training program when a charge of discrimination is filed against the company. A failure to submit the training program puts the company in a defensive posture with the Department's investigator and may well result in the Commission's order to show cause and a civil penalty. Therefore, we urge all companies to provide the training. Please

contact your relationship attorney or an attorney in the Firm's Employment, Labor & Benefits Practice Group to find out how Masuda Funai provides this special service.