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Chicago Requires Employers to Provide Sexual Harassment and Bystander Training

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As of July 1, 2022, employers in the City of Chicago have additional policy, posting and training obligations concerning sexual harassment. The Chicago Human Rights Ordinance (CHRO) now requires that every employer have a written sexual harassment policy, which must be provided to employees in their primary language within their first week of employment. Employers also must train their managers and employees on sexual harassment.

Required elements of a sexual harassment policy

The CHRO specifies that a sexual harassment policy must include the following:

1. The CHRO's definition of "sexual harassment": "any (i) unwelcome sexual advances or unwelcome conduct of a sexual nature; or (ii) requests for sexual favors or conduct of a sexual nature when (1) 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."
2. A statement that sexual harassment and retaliation for reporting sexual harassment is illegal in Chicago.
3. A requirement that employees participate in the annual sexual harassment training and bystander training.
4. Examples of prohibited conduct constituting sexual harassment.
5. Explanation on how an employee can report sexual harassment.
6. Details on legal services and governmental agencies that are available to victims of sexual harassment.

The city provides a model sexual harassment policy that employers can adopt. Failing to adopt a compliant policy subjects the employer to a fine ranging from \$500 to \$1,000 per day.

Mandatory annual training

Managers and supervisors must have two hours of sexual harassment prevention training each year. Employees must have one hour of sexual harassment prevention training. Additionally, all employees must have one hour of bystander intervention training. Bystander intervention involves safe and positive actions that may be carried out by a person or a group of people to prevent harm or intervene where there is a risk or perceived risk of sexual harassment to another. The city provides model sexual harassment prevention and bystander training. Employers must conduct the required trainings on an annual basis beginning July 1, 2022. Failure to do so subjects the employer to a fine ranging from \$500 to \$1,000 per day.

Posting, records and enforcement

Employers must conspicuously display in at least one location where employees commonly gather, posters designed by the commission about the prohibitions on sexual harassment. The employer must display at least one poster in English and one poster in Spanish.

Employers also must retain written records of the policies and trainings given to each employee. The records must be retained for the longer of five years or the duration of any pending claim. Failing to do so creates a presumption, rebuttable by clear and convincing evidence, that the employer violated the ordinance.

In addition, victims now have 365 days, instead of 300 days, to report all forms of discrimination, including sexual harassment. The city has increased the penalties for all forms of discrimination from the previous \$500 to \$1,000 per violation to \$5,000 to \$10,000 per violation.

Chicago employers should review their sexual harassment policy to ensure it complies with the new requirements and be prepared to provide the mandatory training to their managers and employees. Contact your Vorys lawyer if you have questions about EEO policy review or training.