

In Brief

April 29, 2020

ILLINOIS DEPARTMENT OF HUMAN RIGHTS PUBLISHES MODEL SEXUAL HARASSMENT PREVENTION TRAINING

On April 28, 2020, the Illinois Department of Human Rights (“IDHR”) released its model Sexual Harassment Prevention Training program under the Workplace Transparency Act (“WTA”) signed into law in August 2019.

As noted in our [In Brief dated August 13, 2019](#), the WTA implemented extensive reforms to combat sexual harassment in Illinois workplaces, including an amendment to the Illinois Human Rights Act (“IHRA”) requiring that all employers provide sexual harassment prevention training annually. On January 31, 2020, the IDHR released guidance clarifying compliance requirements under the amendment to the IHRA, which are summarized in our [February 5, 2020 Law Alert](#).

The IDHR has finally published its model Sexual Harassment Prevention Training program in two formats—as a [PowerPoint](#) and a [PDF](#). (The program can be accessed through the IDHR’s website or by clicking the links above.) The model program consists of an introduction, four (4) substantive sections, and a conclusion providing a certificate of participation to be completed by participants and returned to their employer.

The program’s introduction contains the statutory language prohibiting sexual harassment under the IHRA and provides the rationale for the legislature’s prohibition of sexual harassment. It also notes the State’s encouragement of employers to establish workplaces where employees are safe to report sexual harassment concerns. The introduction then reiterates that every employer must provide Sexual Harassment Prevention Training to all employees—including short-time, part-time, and interns—as well as independent contractors working on-site with the employer’s staff under the law.

The IDHR’s model training program then provides the following four (4) substantive sections:

1. An explanation of sexual harassment consistent with the Illinois Human Rights Act;
2. Examples of conduct that may constitute unlawful sexual harassment;
3. A summary of Federal and State statutory laws concerning sexual harassment including remedies available to victims; and
4. A summary of employer responsibilities in the prevention, investigation, and corrective measures of sexual harassment.

In the explanation of sexual harassment section, the model program provides familiar definitions for “sexual harassment” under the IHRA and defines the types of unlawful sexual harassment; specifically, *quid pro quo* and hostile work environment. Of note, this

section highlights that an employee’s “working environment”—where one may be subject to sexual harassment—extends beyond their assigned physical location to other worksites including those that are off-site or mobile.

Additionally, the explanation of sexual harassment section provides for protections to nonemployees, finding that they too can be victims and/or perpetrators of sexual harassment. Furthermore, this section clarifies that an individual can be the victim or perpetrator of sexual harassment regardless of their respective gender identity or sexual orientation and that victims of sexual harassment can extend beyond the target of the harassment to third parties or bystanders.

Section three of the IDHR’s model training program on Federal and State laws concerning sexual harassment addresses, among other things, options a victim may use to report sexual harassment including: (1) calling the State of Illinois Sexual Harassment & Discrimination Helpline, (2) reporting the incident to the employer, (3) filing a charge with the IDHR, and (4) filing a charge with the U.S. Equal Employment Opportunity Commission (EEOC). Specific information related to each reporting option is provided, as well as protections and potential remedies for victims, or reporters, of sexual harassment under the law.

Finally, section four of the model program addresses an employer’s responsibilities in preventing, investigating, and engaging in corrective measures related to sexual harassment. This section notes that employers are responsible for harassment by managers/supervisors, co-workers, and nonemployees.

Employers are required to provide sexual harassment prevention training to their employees no later than December 31, 2020, and annually thereafter. An employer can develop this training on their own so long as it meets, or exceeds, Section 2-109(B) of the IHRA, or they may use the model training provided by the IDHR as described here. Whether developing their own training or using the IHRA model, an employer is responsible for maintaining a record of training compliance which can be provided to the IDHR for inspection upon request. This record should include the name(s) of employee(s) trained, the date of training, any sign-in worksheet(s), copies of certificates of participation, and a copy of all materials which make up the training as well as the name of the training provider, if applicable. Such records can be retained in either paper or electronic format.

We are here to help you implement and conduct this sexual harassment prevention training. Feel free to contact your Robbins Schwartz Attorney with any questions about the IDHR’s model program or the required sexual harassment prevention training, generally.