CLIENT ALERTS & INSIGHTS

Time is Running Out for Illinois Employers — The Training Requirements of the Illinois Human Rights Act Must Be Met by December 31, 2020

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Last year, the Illinois Workplace Transparency Act went into effect, which amended the Illinois Human Rights Act (the "IHRA"). The IHRA now requires that all employers with one or more employees in Illinois provide sexual harassment training at least once a year, with the first deadline being December 31, 2020. The training should be made available to any employee in Illinois. In addition, the amended IHRA specifically imposes liability on employers for violations of the Act by nonemployees who are providing services in Illinois. As such, the IHRA sexual harassment training also should be provided to any consultants, temporary workers or contractors in Illinois.

To date, there has been no exception or extension to the December 31, 2020 deadline, even due to issues relating to the pandemic. As such, any employer with one or more employees or individuals working under contract in Illinois should take steps now to ensure that this training is given by December 31, 2020.

Pursuant to the IHRA, the yearly sexual harassment training of Illinois employees must specify what defines sexual harassment under the law; provide examples of unlawful conduct; explain relevant statutes governing sexual harassment and the remedies available; describe methods and policies that can be used by employers to address and prevent sexual harassment; and specify reporting and investigation procedures for complaints of sexual harassment. In addition, the training should cover hypothetical workplace situations involving potential sexual harassment, along with an explanation of strategies that can help employers potentially reduce risk and legal liability. The IHRA permits employers to conduct their own training program as long as it meets the requirements of the IHRA. The training can be done virtually by an attorney or other third party.

The IHRA does not include a requirement that employers certify compliance with this yearly training requirement, but employers should maintain records of the training. The records should include dates of the training; the name of the training provider; the names of the attendees; and a copy of the slides or materials from the training. If an employer fails to comply with this training requirement, the Illinois Department of Human Rights (the "IDHR") can issue a notice to show cause giving the employer 30 days to comply, and that date may be extended pursuant to the discretion of the IDHR. If an employer continues its refusal to comply, the Illinois Human Rights Commission is authorized to issue civil penalties.

For further information relating to trainings that comply with the IHRA, please contact Benesch attorneys in our Labor & Employment Practice Group.

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