

Legal Update

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COMPLIANCE CHECKLIST FOR ILLINOIS' #METOO LAWS

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As discussed in our [August 2019 newsletter](#), Illinois' new #MeToo laws place a number of new requirements on employers as well as expand the scope of employers that must comply. Below is a helpful checklist of items and actions that employers with employees in Illinois should review with their counsel to help ensure compliance:

1. **Annual Training:** Conduct a harassment prevention training program at least once a year that equals or exceeds Illinois' minimum standards. The Illinois Department of Human Rights (the "IDHR") will be crafting and announcing the minimum standards that should be used in training programs. Failure to comply can result in a fine of up to \$5,000.
2. **Handbook Policies:** Update employee handbook policies for compliance with SB 75, including the following:
 - a. **Anti-Harassment and Anti-Discrimination Policies:**
 - i. Does your policy include protection against harassment or discrimination based on "perceived" protected characteristics?
 - ii. Does your policy include protection for harassment of non-employees (e.g., independent contractors and consultants who are directly performing services for the employer)?
 - iii. Does your policy's definition or discussion of the "working environment" or workplace acknowledge that this environment is not limited to a physical location where an employee is assigned?
 - b. **Victims' Economic Security and Safety Act ("VESSA") Policy:**
 - i. Does your policy include gender violence as one of the qualifying reasons for an employee to take job-protected leave under VESSA?
3. **Annual Reporting (beginning July 1, 2020):** Certain disclosures must be made to the IDHR every July, including the number of adverse judgments or rulings against an employer in any discrimination cases.
4. **Offer Letters and Employment Agreements:** Audit current offer letter and employment agreement forms for compliance with SB 75 (including discrimination and harassment-related confidentiality rules). Update forms to ensure that confidentiality or non-disparagement provisions comply with the requirements of SB 75.

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5. **Separation and Settlement Agreements:** Audit current separation and settlement agreement forms for compliance with SB 75 (including discrimination and harassment-related confidentiality rules). Make sure that any confidential settlements comply with the requirements of SB 75.
6. **Arbitration Agreements:** Audit agreements or other documents with mandatory arbitration provisions for compliance with SB 75.
7. **Special Requirements for Certain Situations:**
 - a. **Restaurants and Bars:** There are additional annual harassment prevention training and handbook policy requirements for restaurant and bar employers, including the requirement to provide a written harassment policy in English and Spanish.
 - b. **Hotels and Casinos (beginning July 1, 2020):**
 - i. Employees who are assigned to work alone must be provided free “panic buttons” to summon help.
 - ii. The anti-harassment policy must be provided in English and Spanish and be designed to protect employees against sexual assault and sexual harassment by guests.
 - c. **Unions:** Union representatives can no longer dually represent both the victim and the alleged perpetrator of sexual harassment when they are members of the same union.

While this is not an exhaustive checklist of every requirement for every employer, and the IDHR is set to provide further guidance, it is a good start. Because the laws take effect on January 1, 2020, employers are well advised to begin their compliance efforts now.

FVLD publishes updates on legal issues and summaries of legal topics for its clients and friends. They are merely informational and do not constitute legal advice. We welcome comments or questions. If we can be of assistance, please call or write Jon Vegosen, 312.701.6860, jvegosen@fvldlaw.com, Cecilia Suh, 312.701.6841, csuh@fvldlaw.com, or your regular FVLD contact.

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