



Brenner, Saltzman & Wallman LLP

Attorneys at Law – Established 1963

IMPORTANT CHANGES TO EMPLOYMENT LAWS REGARDING SEXUAL HARASSMENT TRAINING UNDER CONNECTICUT'S TIME'S UP ACT

August 31, 2020

Last year, Connecticut adopted several new laws known as the Time's Up Act (the "Act"). The Act went into effect on October 1, 2019, and contains several important changes to Connecticut's employment laws, including new rules and requirements regarding sexual harassment training and notice requirements.

EXPANDED SEXUAL HARASSMENT TRAINING REQUIREMENTS

The law imposes sexual harassment training requirements on all Connecticut employers.

Prior to enactment of the Act, only employers with 50 or more employees were required to provide sexual harassment training, with such training being limited to supervisory employees.

Under the Act, employers having 3 or more employees are required to provide 2 hours of training and education by no later than October 1, 2020, to all employees hired prior to October 1, 2019 and to any employee hired on or after October 1, 2019 within 6 months of the date of hire. An employer having less than 3 employees must provide the same training and education within the same time periods, but only for supervisory employees.

The Act exempts from the training requirement any employee who already had received training after October 1, 2018. In addition, employers are required to provide updated training to all affected employees at least once every 10 years.

The training and education required by the Act must include information concerning the federal and state statutory provisions on sexual harassment and the remedies available to victims of sexual harassment. The training must be "interactive" and provide a means through which questions on the training materials may be submitted and answered within a reasonable period of time.

The Commission on Human Rights and Opportunities (CHRO) has developed a training and educational video on its website which satisfies the training requirements under the Act, which can be found here:

<https://www.ct.gov/chro/cwp/view.asp?a=5019&Q=609536&chroNav>

EXPANDED NOTICE REQUIREMENT

The Act extends the sexual harassment notice requirement that previously existed under Connecticut law.

Prior to the Act, employers with 3 or more employees were required to post notice in the workplace about the illegality of sexual harassment and the remedies available to victims of sexual harassment. Under the Act, employers of 3 or more employees must continue to post such information in a prominent workplace area, and must also provide a copy of this information to each employee within 3 months of the

employee's start date. An employer may provide this information to its employees via email or by providing its employees with the link to the CHRO's website, <https://www.ct.gov/chro/cwp/view.asp?a=5019&Q=609536&chroNav>, via email, text message or in writing. If an employer lacks an email address for an employee, the employer must post a copy of the required information on its company website, if it maintains one.

ENFORCEMENT PROCEDURES; EMPLOYER FINES

The Act affords the CHRO authority to enter an employer's place of business to ensure compliance with the notice and posting requirements and examine records, policies, procedures, and sexual harassment training materials maintained. The CHRO has such authority when its executive director "reasonably believes" that the employer is in violation of the Act or within 12 months following the receipt by the CHRO of a complaint filed by an employee against the employer.

Employers who fail to provide the required sexual harassment training and education or fail to follow the Act's notice and posting requirements may be fined up to \$750 for each offense.

ENHANCED PROTECTIONS AND REMEDIES FOR EMPLOYEES FILING DISCRIMINATION CLAIMS

The Act expands the protections provided to employees claiming sexual harassment and other kinds of workplace claims under Connecticut law. Under the Act, if an employee files a sexual harassment claim, an employer cannot modify the terms or conditions of the subject employee's employment (e.g., relocating the employee) without first obtaining the employee's written consent to the modification. The Act also increases the period of time for employees to file any complaint alleging discrimination against an employer; employees now have 300 days (as opposed to the former 180 days) following the date of the alleged discriminatory act to file a discrimination claim under Connecticut law.

In addition, the Act significantly increases the potential remedies available to a complainant filing a workplace discrimination claim: the CHRO may now award a prevailing complainant compensatory damages and costs (in addition to back pay and reinstatement), as well as reasonable attorneys' fees, and a court may now award a prevailing plaintiff punitive damages.

90-DAY EXTENSION FOR COMPLIANCE

In recognition of the challenges employers have challenges in ensuring compliance with the Act during the COVID-19 pandemic, the CHRO has authorized employers to apply for a 90-day extension to complete training for employees *who have been hired after October 1, 2019*.

Employers may request an extension by emailing the CHRO at CHRO.questions@ct.gov and describing why it is unable to complete the training requirements for its newly hired employees due to COVID-19. According to the CHRO the "lack of access to technology including computer/the internet, illness of the employee or other unforeseeable circumstances" may substantiate an employer's request for the extension. If the extension is granted, the employer will be required to train employees hired after October 1, 2019, within 9 months (instead of 6 months) of the date of hire.

It is important to note that the CHRO's guidance does not contemplate modification of the existing deadline for training all employees hired before October 1, 2019. Training for those employees must still be completed on or by October 1, 2020.

EMPLOYER TAKEAWAYS

Connecticut employers who have not already taken steps to comply with the Act's new training and notice requirements should prepare to do so as soon as possible, bearing in mind that their existing employees must fulfill the training requirement **by no later than October 1, 2020**, while new employees are required to fulfill the requirement within 6 months of their date of hire. Upon request to the CHRO, employers may be able to obtain a 90-day extension to complete the training requirement for employees who are hired after October 1, 2019.

Connecticut employers should also review and modify as necessary their notice and posting practices regarding the illegality of sexual harassment and the remedies available to victims of sexual harassment, and their policies and procedures pertaining to the prohibition of sexual harassment and discrimination in the workplace, to ensure compliance with the Act's provisions.

BSW is available to assist employers with the implementation of these new legal requirements. If you would like our assistance or have any other questions regarding these matters, please contact:

Jennifer Deakin jdeakin@bswlaw.com

The CHRO's sexual harassment prevention resources, including the CHRO's online training course and the full text of the Time's Up Act, can be found here:

<https://www.ct.gov/chro/cwp/view.asp?a=5019&Q=609536&chroNav>

The information contained herein is provided as an accommodation and for informational purposes only. This information may not reflect the most current legal developments, and it may not be applicable to your specific circumstances. Do not act upon this information without seeking legal counsel. This information does not constitute legal advice or create an attorney-client relationship with BSW. Do not send us information until we authorize you to send that information to us and we have sent you a letter confirming BSW will represent you.