

Employment Matters Alert: Connecticut's Time's Up Act

New Protections for Employees, New Burdens for Employers | November 2019

BACKGROUND

In response to the recent uptick in attention to workplace sexual harassment, Connecticut has adopted several new laws increasing protections for employees and requirements for employers. The new provisions include expanded training and notice requirements, more workplace protections and expanded remedies for employees with complaints, increases in fines and enforcement mechanisms, and an expanded time period to file claims. The changes of most significance to Connecticut employers and their business practices are the expanded training and notice requirements for employers, and a new limitation on an employer's ability to respond to a harassment complaint by making changes in the complaining employee's job.

A. SIGNIFICANT EXPANSION OF EMPLOYEE TRAINING REQUIREMENTS.

- Formerly, employers with 50 or more employees were required to provide 2 hours of training to supervisory employees only, within 6 months of hire or assumption of supervisory position.
- Under the new laws:
 - Employers with 3 or more employees must provide 2 hours of training to all current employees (other than those who have already received training) by October 1, 2020, and to all new employees within 6 months after the date of hire.
 - Employers with fewer than 3 employees must satisfy the same requirements for their supervisory employees only.
 - Employers must provide updated training to all employees at least every 10 years.

B. EXPANDED WORKPLACE NOTICE REQUIREMENTS.

In addition to a posted notice in the workplace regarding the illegality of sexual harassment and the remedies available to victims, employers of 3 or more employees must now provide such information (or provide a link to the CHRO's website with this information) to each new employee via email (with "Sexual Harassment Policy" in the subject line) within 3 months after the employee's start date. If an employer does not have an email account for the employee, the employer must post information regarding the illegality of sexual harassment and the remedies available to victims on the employer's Internet website, if the employer maintains one.

C. NEW PROTECTIONS AND REMEDIES FOR EMPLOYEES WITH HARASSMENT COMPLAINTS.

- Any corrective action taken by an employer in response to a sexual harassment complaint may not include changing the employment conditions of the complaining employee unless the employee agrees in writing to the changes. (If the employee subsequently files a claim with the CHRO, the CHRO has the power to decide, based on the evidence, that the employer's changes were reasonable.)
- A successful complainant in a CHRO hearing is entitled to an award of compensatory damages and costs to make the complainant whole (remedies are no longer limited to back pay and reinstatement), and may also be awarded reasonable attorneys' fees.
- A complainant in a court case may now be awarded punitive damages.

D. INCREASED EMPLOYER FINES AND ENFORCEMENT PROCEDURES.

- Employer fines for noncompliance with notice and training requirements have been tripled from \$250 to \$750.
- For the first 12 months after a CHRO complaint is filed, if the CHRO reasonably believes that the employer is in violation of Connecticut notice and training requirements, CHRO representatives may enter the workplace during normal business hours to examine the employer's records, policies and procedures.

E. EXPANDED TIME PERIOD TO FILE A HARASSMENT COMPLAINT.

The time period for an employee to file an employment discrimination claim with the CHRO has been expanded from 180 days to 300 days after the discriminatory act occurs.

The Time's Up Act became effective on October 1, 2019.

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