

## Connecticut's Newly Signed Law Imposes New Sexual Harassment Training Obligations

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### Working Together

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On June 18, 2019, Governor Ned Lamont signed into law a new bill imposing significant changes to sexual harassment training requirements for employers. The bill, entitled "An Act Combatting Sexual Assault and Sexual Harassment," and dubbed the "Time's Up Act," is Connecticut's response to the #MeToo movement, and overhauls, among other things, Connecticut's mandate for sexual harassment training and education in the workplace.

Currently, employers with 50 or more employees are required to provide sexual harassment training to their supervisors. The bill expands upon this obligation by now requiring any employer with three or more employees to provide sexual harassment training and education to all employees, not just supervisors. The bill also imposes certain sexual harassment training and education requirements on employers with fewer than three employees. The following chart is a helpful guide in understanding the new training requirements:

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Although the bill requires the training to occur by October 1, 2020, there is an exception for employers who have already met the bill's training requirements after October 1, 2018, and such employers are not required to provide it a second time. The fine for an employer's failure to provide the requisite training can be up to \$1,000. The bill also requires employers to provide periodic supplemental training that updates all supervisory and non-supervisory employees on the content of such training and education not less than every ten years. Furthermore, the bill classifies an employer's failure to provide the requisite training and education as a "discriminatory practice," exposing such employers to legal liability.

Another significant component of the bill is its charge for the Connecticut Commission on Human Rights and Opportunities to develop and make available to employers a free, online training and education video or other interactive method that would fulfill the bill's training requirements. Query whether such new and free online training would make the sexual harassment training that is now often provided by law firms to their corporate clients, a thing of the past. The bill also requires the CHRO to develop and include on the Commission's internet web site a link concerning the illegality of sexual harassment and the remedies available to victims of sexual harassment.

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**pullcom.com**  @pullmancomley

**BRIDGEPORT**  
203.330.2000

**HARTFORD**  
860.424.4300

**SPRINGFIELD**  
413.314.6160

**WAKEFIELD**  
401-360-1533

**WATERBURY**  
203.573.9700

**WESTPORT**  
203.254.5000

**WHITE PLAINS**  
914.705.5355

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The bill imposes additional notice requirements on employers to help ensure that employees are aware of the illegality of sexual harassment and the remedies available to victims of sexual harassment. Current law gives the CHRO the authority (which it has exercised) to require employers with three or more employees to post in a prominent and accessible place a notice stating that sexual harassment is illegal and the remedies available to victims. The bill strengthens this notice provision by requiring employers to also send a copy of this information to employees by e-mail within three months of their hire if: (1) the employer has provided an e-mail account to the employee; or (2) the employee has provided the employer with an e-mail address. The e-mail's subject line must include the words "Sexual Harassment Policy" or words of similar import. Additionally, if an employer has not provided an e-mail account to employees, the employer must post the information regarding the illegality of sexual harassment and remedies available to victims on the employer's website, if it has one. The employer may also comply with this provision by providing a link to the CHRO's website.

Additionally, the bill authorizes the CHRO to conduct inspections to determine whether employers are complying with the training and notice obligations imposed by the bill. Specifically, a CHRO representative may enter an employer's place of business during normal business hours to ensure compliance with posting requirements and to examine "records, policies, procedures, postings and sexual harassment training materials maintained" by the employer, provided that such inspection does "not unduly disrupt the business operations of the employer."

Perhaps the biggest open question regarding these new training and educational requirements concerns the CHRO's obligation to develop a free, online training and education video or other interactive method that would fulfill employers' training obligations. Indeed, the language of the bill (i.e., ". . . *provided the Commission has developed and made available such training and education materials. . .*") suggests that the mandate that employers train their employees is actually contingent on the CHRO's creation of the online (or other interactive) materials. It will be interesting to see how this plays out in the event that the CHRO is unable to make available in a timely manner the training and education materials. Given that the newly enacted law goes into effect on October 1, 2019, the CHRO has a relatively small window of time to create and provide the online or interactive training and education materials.

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**Tags:** #MeToo, CT Commission on Human Rights and Opportunities (CHRO), Sexual Harassment