

Connecticut Allows Some Training Portability, Amends Law Barring Discriminatory Practices

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In its 2021 Session, the Connecticut General Assembly amended the Connecticut Fair Employment Practices Act (CFEPA), which prohibits discriminatory practices, and other related laws on sexual harassment training and affirmative action plans, among others provisions.

All of the following amendments are effective October 1, 2021.

Portability of Sexual Harassment Training Conducted by Commission on Human Rights and Opportunities (CHRO)

Since October 1, 2019, Connecticut has required employers with at least three employees to provide employees with two hours of sexual harassment prevention at least every 10 years.

Under the CFEPA amendment, employers are released from their obligation to provide training to a new employee if the new employee has received in-person training provided by the CHRO or taken the CHRO's online training while employed by a different employer within the two years preceding the date of hire.

While this is intended to benefit employees who may have held multiple jobs within a short timeframe, this amendment does not extend to private trainings conducted by employers or by third-parties on their behalf.

Uniform Filing Deadlines

As part of previous amendments to the CFEPA, the filing timeframes for employment complaints and for public accommodation complaints filed against state agencies were changed from 180 days to 300 days from the date of the alleged adverse act. The 180-day filing requirement for certain other claims (such as housing and other public accommodation claims) was not changed.

The CFEPA amendment provides some uniformity for filing deadlines, regardless of the nature of the claim. Now, aggrieved individuals with housing or public accommodation discrimination claims have 300 days after the alleged act to file their complaint.

Service of Public Hearing Complaint by Email

For claims that are certified for a public hearing, the General Assembly has clarified that service of such a complaint may be made by email, in addition to first class mail. Prior language in the statute directed the chief referee to "serve" a copy of the complaint, and the General Assembly sought to correct any ambiguity in the proper manner of service.

Affirmative Action Plans, Contract Bidding

Under existing law, the successful bidder for certain large state, municipal, or quasi-public agency contracts must file with CHRO, and obtain its approval for, an affirmative

action plan (AAP) before the contract is awarded. An AAP also must be filed with CHRO if the contractor (1) has at least 50 employees and (2) is awarded a contract for more than \$50,000.

The current version of the law permitted the AAP to be considered “approved or deficient without consequence” if the CHRO failed to formally review the AAP within 120 days. However, contractors were barred from bidding on, or being awarded, such contracts until the CHRO “approved” the AAP.

The CFEPA amendment clarifies that contractors will only be barred from bidding on or being awarded contracts if they fail to develop an AAP that is either “approved” *or* “deficient without consequence.”

State Entities Obligated to Mitigate Alleged Discriminatory Conduct

Under existing law, the equal employment opportunity officer for any Connecticut state agency, department, board, or commission is required to investigate all complaints of discrimination made against the entity for which they are responsible. However, if the complaint is filed with the CHRO or the Equal Employment Opportunity Commission (EEOC), the officer may rely upon the CHRO or EEOC investigation in lieu of conducting its own. As a result, according to CHRO Executive Director Tanya Hughes, a state agency could effectively delay its own internal investigation until after the CHRO or EEOC conducted one, allowing continuation of a discriminatory working environment.

The CFEPA amendment clarifies that a state agency must take affirmative steps to mitigate discriminatory conduct and take necessary corrective action to prevent a like occurrence if presented with a complaint of discrimination, regardless of whether an investigation is being conducted by the CHRO or EEOC.

Jackson Lewis attorneys are available to answer questions about these legal developments and assist employers in updating their policies and procedures.

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