

Don't Let COVID-19 Distract You From Implementing Illinois' Required Annual Sexual Harassment Prevention Training by December 31, 2020

By Carol A. Poplawski



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Last year the Illinois Human Rights Act ("IHRA") was amended to require employers to provide sexual harassment prevention training before December 31, 2020, and each calendar year after that. With the pandemic dominating the news and businesses facing unprecedented challenges in responding

to it, this requirement could easily be overlooked, but doing so can be a costly mistake in an otherwise tough financial business climate. Here is what contractors need to know and do in order to comply.

Who Must Provide Annual Harassment Prevention Training

All employers with one or more employees working in Illinois must provide training.

Who Must Receive Training

Employers must train all employees, including part-time employees, temporary employees, and interns who work or will work in Illinois. But according to the Illinois Department of Human Rights' ("IDHR") frequently asked questions, the law also applies to employers and employees outside Illinois. Employers both in Illinois and out of state are required to:

- Train employees who work or will work in Illinois.
- Train employees who do not work in Illinois but regularly interact with other employees in Illinois—for example, a supervisor located out of state who supervises employees in Illinois.

The IDHR states that training independent contractors is not required. Yet, the agency said it is "strongly advised" that independent contractors receive training if they work on-site or interact with employees.

What the Training Must Include

Training must be accessible to employees with disabilities and non-English speakers. Additionally, employers must provide training that meets the IDHR's minimum training requirements for all employers. These minimum training requirements must:

- Explain and provide examples of sexual harassment,
- Summarize federal and state law and remedies for victims of sexual harassment, and
- Summarize employers' obligations to prevent and investigate sexual harassment and take prompt corrective action.

Employer Recordkeeping Requirements

Lastly, employers are required to maintain internal paper or electronic records of training compliance and make them available for IDHR inspection upon request.

Employers may include one of the following records to reflect training compliance:

- Certificate of participation;
- Signed employee acknowledgement; or
- Training sign-in sheet.

Employers are required to include the following information in their training records:

- Name of employee;
- Date of training;
- Any of the above issued records of compliance; and
- A copy of all written or recorded materials that include the training and training provider.

Each employer to furnish to each of its employees a workplace that is free from recognized hazards that are causing or likely to cause death or serious physical harm.

The general duty provisions can be used by OSHA only where there is no standard that applies to the particular hazard and the employer has its own employees exposed to the alleged hazard.

All the following elements are necessary for OSHA to prove a general duty clause violation:

1. The employer fails to keep the workplace free of a hazard to which its employees were exposed.
2. The hazard was recognized.
3. The hazard was causing, or was likely to cause, death or serious physical harm.
4. There was a feasible and useful method to correct the hazard.

COVID-19 fits all four of the criteria listed above, and the guidelines laid out by the CDC as well as the existing Illinois Executive Order to build effective safety programs and policies to protect employees. This will be the environment all businesses in Illinois will be working in until OSHA changes its position.

Looking Ahead . . . What Does My Insurance Spend Look Like Due to the COVID-19 Disruption?


With the major disruption COVID-19 has caused in the world, the ripple effect will be significant on the insurance marketplace. Because of the uncertainty, insurance carriers are backing down and tightening restrictions. As mentioned in the webinar, the umbrella liability line of business has been immediately impacted. Carriers who are normally offering large limits of liability are taking risk off the table by pulling back (instead of offering a 10M umbrella, they are only offering 5M). For our members, the impact is a higher annual premium spend.

In addition to the insurance market hardening, the EMR calculation has changed due to COVID-19 in the workplace. For all roofing contractors, keeping the EMR at 1.00 or below is crucial for optimal job placement. Here are a few things to keep in mind as you prepare for your next EMR calculation:

1. EMR is calculated on your prior 3 years' experience NOT including the current year
 - a. 2020 term will not hit your EMR calculation until 2021

2. Payroll and EMR have an **INVERSE** relationship

- a. As Payroll goes up, EMR goes down / As Payroll goes down, EMR goes up

Even with the uncertainty, the roofing industry has an opportunity to capitalize on the changes that lie ahead. The insurance market is still tasked with writing new business, and the best in class contractors are going to reap the benefits. Carriers will attack clean accounts with below market pricing to hit new business goals. The CRCA membership carries a badge of safety first and best in class operations, so the opportunity is there to take advantage of the volatile marketplace. 

References:

www.osha.gov

<https://www.statista.com/statistics/1095129/worldwide-fatality-rate-of-major-virus-outbreaks-in-the-last-50-years/>

<https://dph.illinois.gov/covid19>

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Editor's Note: With the onset of the COVID-19 pandemic, CRCA was forced to cancel in-person events and meetings to comply with state and local restrictions. Instead, the leaders of CRCA saw the opportunity to educate members on a broad range of topics, from COVID-19 education and legal requirements, energy code education, air barrier basics and even the mandatory Sexual Harassment prevention training required for all Illinois employees. The article above represents some of the information delivered in the June 4th Webinar presentation by Marino and Hayes. These important and impactful webinars were provided to CRCA members free of charge and the content and audio recordings can be found in CRCA's members only area. Looking for our firm's members only login info or want to learn more about becoming a CRCA Member? Contact info@CRCA.org today!