

New Sexual Harassment Requirements for Illinois Lobbyists

Matthew C. Luzadder, Jeffrey J. Hunter

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Take action now to meet the new policy, training, and certification requirements.

Beginning January 1, 2018, Illinois lobbyists and their employers must comply with new sexual harassment compliance rules. Governor Bruce Rauner signed into law [Public Act 100-0554](#) (the Act) to combat sexual harassment in the state legislature. The Act imposes sweeping new requirements on lobbyists even if they are the victims. Press reports detail a number of allegations involving legislators, including some made by [lobbyists](#) and activists. One allegation forced the Senate majority leader to [step-down](#) from his post. In addition, hundreds of women signed an [open letter](#) to bring attention to this pattern of abuse in the state capitol. It appears that discussion of sexual harassment will continue into 2018.

Before the Act, only the Legislative Inspector General could investigate allegations of legislators' sexual misconduct. That position, however, has been [vacant since 2014](#). Notably, more than two dozen allegations sat uninvestigated on an empty desk. Now, state law authorizes the Secretary of State Inspector General to investigate allegations and the State Executive Ethics Commission to enforce the rules. The legislature, in policing itself, requires lobbyist employers to follow much the same requirements as state agencies in combatting sexual harassment.

Kelley Drye has followed this issue closely and is advising clients on proactive steps they can take to prevent sexual harassment. Stopping the "[Harveys in our midst](#)" before they can harm our colleagues or our businesses is more important than ever before. Relying on a generic HR sexual harassment policy is not enough. Employers—not just their registered lobbyists—face new requirements with only weeks to comply.

Policy Requirement. All lobbyist employers must have a written sexual harassment policy in place no later than January 1, 2018. This applies whether the organization's Illinois lobbyists are in-house employees or outside consultants. At a minimum, the employer's sexual harassment policy must include:

1. A prohibition on sexual harassment;
2. Details on how to report sexual harassment allegations, including options for making a confidential report to a supervisor, ethics officer, Inspector General, or the Illinois Department of Human Rights;
3. A prohibition on retaliation for reporting sexual harassment allegations, including availability of

whistleblower protections under the State Officials and Employee Ethics Act, the Whistleblower Act, and the Illinois Human Rights Act; and

4. The consequences of violating the prohibition on sexual harassment or knowingly making a false report.

Training Requirement. Beginning January 1, 2018, registered lobbyists must complete sexual harassment training within 30 days of filing their initial registration (due before lobbying) or annual renewal (due by January 31). The Secretary of State's office will provide this training online as an additional module to the annual lobbyists' ethics training program it has administered for years. The Act provides two exemptions, waiving this new training requirement if:

- The lobbying entity has no employee registered as an Illinois lobbyist, which (logically) means only the organization's outside lobbyists must take the training; or
- The individual lobbyist works outside Illinois, such as a regional government relations specialist who registers for occasional fly-ins to Springfield or contact with regulatory agencies.

Certification Requirement. When filing lobbyist registrations or annual renewals, the employer must certify that:

1. It has a sexual harassment policy in place that meets the requirements summarized above;
2. It will make the policy available upon written, including electronic, demand within two business days;
3. Any person may contact the registrant's "authorized agent" (*i.e.*, the person a registrant designates to file lobbying reports) to report allegations of sexual harassment; and
4. It acknowledges the Secretary of State Inspector General has jurisdiction to review any allegations of sexual harassment by the registrant or the lobbyists it hires.

Penalties. Violations of the Act may be subject to conviction of a business offence, with a fine of up to \$5,000, in addition to any civil penalties imposed by a court of law or by the Secretary of State in enforcing the Illinois Lobbyist Registration Act. The Act also authorizes the Executive Ethics Commission to impose penalties provided by Section 50/50 of the State Officials and Employees Ethics Act, which include class A misdemeanor offenses and/or civil penalties. These penalties exist independently of any individual causes of action available to sexual harassment victims in Illinois or other jurisdictions.

Next Steps. With only a few weeks until the January 1, 2018 deadline, complying with the Act's new requirements may be challenging. Registered lobbyist employers that have sexual harassment policies in place now should review them under the criteria provided by the Act. Employers without policies should consider implementing them now. Both will need to certify having a compliant written policy in place when they file their 2018 registration renewals next month. Kelley Drye's multidisciplinary team of employment law and lobbying compliance attorneys is available to help.