

Legal Update Article

Illinois Employers Must Report Final Adverse Judgments, Administrative Rulings by October 31, 2020

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The first annual report to the Illinois Department of Human Rights (IDHR) of employers' information about adverse judgments or administrative rulings against them in the prior year is due October 31, 2020.

Section 2-108 of the Illinois Human Rights Act (enacted in 2019) requires Illinois employers to report to the IDHR all final and non-appealable judgments that find sexual harassment or unlawful discrimination in an employee's favor and against the employer in the preceding calendar year.

Recently, the IDHR posted materials on its website explaining this obligation. The IDHR also has provided a form ([Form IDHR 2-108](#)) to be completed when making annual disclosures. For the calendar year 2019, the filing deadline is October 31, 2020. Thereafter, the annual filing deadline is on July 1 of each year.

This reporting requirement applies to all final adverse judgments or administrative rulings in favor of Illinois employees and against Illinois employers. Judgments in favor of employees who do not work in Illinois need not be reported.

An "adverse judgment or administrative ruling" is defined as any final and non-appealable judgment that finds sexual harassment or unlawful discrimination, where the ruling is in the employee's favor. Examples include a final order against an employer issued by the Illinois Human Rights Commission, the Cook County Commission on Human Rights, the Chicago Commission on Human Relations, or an Illinois Circuit Court. A final judgment entered by a federal court in a matter arising under Title VII of the Civil Rights Act, the Age Discrimination in Employment Act, or the Americans with Disabilities Act also qualifies once the judgment is no longer appealable.

Form IDHR 2-108 asks employers to state the number of employees employed during the reporting calendar year, the number of adverse judgments, and the protected category involved. Completed forms can be filed by submitting to IDHR.WEBMAIL@Illinois.gov.

Employers are not permitted to include in their disclosures the names of employees who were victims of sexual harassment or unlawful discrimination.

If an employer had no adverse judgments or administrative rulings in favor of employees in the prior year, it does not need to file a report.

The IDHR will report the information it receives to the Illinois General Assembly. If an employer fails to make the required disclosures, the IDHR will issue a notice to show cause giving the employer 30 days to disclose the required information. If the employer fails to show cause, the IDHR will petition the Commission for entry of an order imposing a civil penalty. The civil penalties for failure to report are based on the number of employees and the number of offenses.

Employers are not required to report settlements to the IDHR. However, IDHR investigators may request settlement information for up to five years as part of an investigation.

Jackson Lewis attorneys are available to assist employers with this and other workplace requirements.

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