

§807. Requirements

In addition to employer responsibilities set forth in rules adopted under Title 5, section 4572, all employers shall act to ensure a workplace free of sexual harassment by implementing the following minimum requirements. [PL 1991, c. 474, §2 (NEW).]

1. Workplace posting. An employer shall post in a prominent and accessible location in the workplace a poster providing, at a minimum, the following information: the illegality of sexual harassment; a description of sexual harassment, utilizing examples; the complaint process available through the commission; and directions on how to contact the commission. The text of this poster may meet but may not exceed 6th-grade literacy standards. The commission may provide this poster to employers at no charge. This poster must also be available on the department's publicly accessible website and may be reproduced.

[PL 2017, c. 162, §2 (AMD).]

2. Employee notification. Employers shall provide annually all employees with individual written notice that includes at a minimum the following information: the illegality of sexual harassment; the definition of sexual harassment under state law; a description of sexual harassment, utilizing examples; the internal complaint process available to the employee; the legal recourse and complaint process available through the commission; directions on how to contact the commission; and the protection against retaliation as provided pursuant to Title 5, section 4553, subsection 10, paragraph D. This notice must be initially provided within 90 days after the effective date of this subchapter. The notice must be delivered in a manner to ensure notice to all employees without exception, such as including the notice with an employee's pay.

[PL 1991, c. 474, §2 (NEW).]

3. Education and training. In workplaces with 15 or more employees, employers shall conduct an education and training program for all new employees within one year of commencement of employment. Training provided under this subsection must include the illegality of sexual harassment; the definition of sexual harassment under state and federal laws and federal regulations, including the Maine Human Rights Act and the Civil Rights Act of 1964, 42 United States Code, Title VII, Sections 2000e to 2000e-17; a description of sexual harassment, utilizing examples; the internal complaint process available to the employee; the legal recourse and complaint process available through the commission; directions on how to contact the commission; and the protection against retaliation as provided under Title 5, section 4553, subsection 10, paragraph D. Employers shall conduct additional training for supervisory and managerial employees within one year of commencement of employment that includes, at a minimum, the specific responsibilities of supervisory and managerial employees and methods that these employees must take to ensure immediate and appropriate corrective action in addressing sexual harassment complaints.

Education and training programs conducted under this subsection by the State, a county or a municipality for its public safety personnel, including, but not limited to, law enforcement personnel, corrections personnel and firefighters, may be used to meet training and education requirements mandated by any other law, rule or other official requirement.

[PL 2017, c. 162, §2 (AMD).]

4. Compliance checklist. The department shall develop a compliance checklist for employers covering the requirements under subsection 3. The checklist must be made available on the department's publicly accessible website. The commission shall provide a link to the compliance checklist on the commission's publicly accessible website. Employers shall use the checklist to develop a sexual harassment training program and shall keep a record of the training, including a record of employees who have received the required training. Training records must be maintained for at least 3 years and must be made available for department inspection upon request.

[PL 2017, c. 162, §2 (NEW).]

5. Enforcement. The department shall enforce the notification requirement under this section and, upon inspection or complaint, shall ensure that employers have provided the training as required by subsection 3. If the department has determined that an employer has complied with the provisions of this subchapter, that determination and all completed department enforcement actions are considered final. Department actions under this subchapter do not limit or affect the authority or jurisdiction of the commission.

The commission may request department enforcement records related to a complaint filed with the commission when the complaint is related to this subsection. Such records are subject to section 3. [PL 2017, c. 162, §2 (NEW).]

6. Penalties for violations. An employer who violates this section may be assessed a fine by the department in accordance with this subsection.

A. An employer who violates the workplace posting requirement in subsection 1 may be assessed:

- (1) For the first violation, a fine of up to \$25 per day, not to exceed \$1,000;
- (2) For a 2nd violation occurring within 3 years of a prior violation, a fine of not less than \$25 per day up to \$50 per day, not to exceed \$2,500; and
- (3) For a 3rd or subsequent violation occurring within 3 years of 2 or more prior violations, a fine of not less than \$25 per day up to \$100 per day, not to exceed \$5,000. [PL 2017, c. 162, §2 (NEW).]

B. An employer who violates the notification, education or training requirements set forth in subsection 2 or 3 may be assessed:

- (1) For the first violation, a fine of \$1,000;
- (2) For a 2nd violation, a fine of \$2,500; and
- (3) For a 3rd or subsequent violation, a fine of \$5,000. [PL 2017, c. 162, §2 (NEW).]

[PL 2017, c. 162, §2 (NEW).]

SECTION HISTORY

PL 1991, c. 474, §2 (NEW). PL 2017, c. 162, §2 (AMD).

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