



Political Law Alert

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Anti-Sexual Harassment Measures: Illinois Publishes Emergency Rules and New Mexico Announces Voluntary Training

Illinois Emergency Rules

As discussed in our December 6, 2017, [mailing](#), Illinois Gov. Bruce Rauner signed SB 402 on November 16, 2017, which amended the Illinois Lobbyist Registration Act (the act) to address sexual harassment. On December 1 and 26, 2017, the Illinois secretary of state published emergency rules currently in effect that implement these amendments. The secretary of state also published proposed rules identical to the emergency rules, with a 45-day comment period from their respective publication dates. The emergency rules will expire after 150 days or upon adoption of the proposed rules, whichever comes first. We summarize the most significant rules below. The December 1 rules are available [here](#) and the December 26 rules are available [here](#).

Illinois Inspector General Jurisdiction

The act grants the secretary of state's Office of the Inspector General (OIG) the authority to review allegations that a person required to be registered under the act engaged in sexual harassment. The December 1, 2017, emergency rules clarify that for the OIG to initiate a review of a complaint alleging sexual harassment by an individual required to register under the act, there must be a logical nexus between the individual's obligation to register and the circumstances in which the alleged sexual harassment took place, including the location and identity of the alleged victim. In particular, the OIG will not exercise jurisdiction where a complainant alleges his or her employer has engaged in sexual harassment. In such circumstances, "the subject of the complaint is acting in the capacity of an employer, and not in the capacity of someone who is required to register under the [act]." Please note that the employer still may be subject to the OIG's jurisdiction in sexual harassment cases that are related to Illinois lobbying and not merely in its capacity as an employer.

Acknowledgement by Illinois Lobbyists

The act requires each natural person and entity required to register under the act to have a written sexual harassment policy in place by January 1, 2018, that meets certain criteria. The December 26, 2017, emergency rules require an authorized agent to provide each lobbyist employed by a lobbying entity with the policy and to secure a

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signed acknowledgement form confirming receipt. The lobbyist must sign and date the form within two business days, and the authorized agent must retain signed forms for two years.

The plain language of the act raises questions as to whether and how individuals registered under the act should maintain a policy. Although the emergency rules do not expressly address these questions, they suggest that an individual may satisfy this requirement by acknowledging his or her employer's policy.

New Mexico Sexual Harassment Training

The New Mexico secretary of state's office announced it will offer voluntary sexual harassment trainings for New Mexico lobbyists on January 11 and 18, 2018. Please note that lobbyists will be required to disclose on their 2018 registration forms whether the lobbyist, or his or her employer, has sexual harassment policies in place and whether the lobbyist has received any sexual harassment training in the last 12 months. The secretary of state's website will display the answers in a searchable format. In addition, the secretary of state will ask the state legislature to mandate regular sexual harassment training for lobbyists.

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