

PR Department of Labor Issues Anti-Bullying Protocol Guidelines

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PRACTICE AREAS

- Labor & Employment

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On February 3, 2021, the Puerto Rico Department of Labor (“PR DOL”) issued Guidelines (“Guides”) for private employers to implement the mandates of P.R. Act No. 90 of August 7, 2020 (“Act 90”), which prohibits and seeks to prevent workplace harassment or bullying. (See our August 17, 2020 Alert).

Act 90 instructed the PR DOL to issue uniform guidelines on how employers must handle employees’ workplace harassment complaints. To comply with the Guides, employers must adopt a protocol that serves the dual purpose of informing employees about the conduct prohibited under Act 90 and establishing an internal procedure to channel and investigate harassment complaints.

All private employers have until **August 2, 2021** (180 days from the issuance of the Guides) to implement the anti-bullying policy and protocol required under Act 90, and to take all the necessary measures to disseminate and enforce the same.

We note that the Guides clarify that employers can incorporate the provisions of Act 90 and the Guides into other current policies and protocols, such as the equal employment opportunity and sexual harassment policies and the domestic violence protocol. However, the Guides specifically provide that any policy and protocol under Act 90 must include, at a minimum, the following:

- a statement against workplace bullying and the employer’s responsibilities;
- examples of conduct that constitute workplace bullying;
- a declaration that the employer will take disciplinary action against employees who engage in prohibited conduct and a warning that personal liability may be incurred;
- the responsibilities of supervisors and managers;
- an explanation of the protections, remedies and forums that are available to employees to denounce the harassment and/or seek redress, and the internal procedure that must be followed to present and resolve these

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- claims, including time limits and notification rules, confidentiality, anti-retaliation provisions and others; and
- a statement regarding how the protocol will be distributed, the effective date, and how it can be revised

The Guides include a basic model of an Act 90 policy and protocol that employers can use as an example when adopting their own.

Also, the Guides reiterate the employers' legal duties to provide trainings and orientations to their managers, supervisors, and employees, and to disseminate the policy and protocol within the August 2, 2021 deadline. In addition, employers must post a notice of rights under Act 90 in a conspicuous place. The Guides further clarify that for employees working remotely, the posting requirement can be complied with by sending the notice by email or posting it in a webpage.

Employers who already have an anti-bullying policy must revise it in light of these new Guides. Employers may also consider providing updated trainings that cover policies and protocols on workplace bullying, sexual harassment, gender identity and sexual orientation discrimination, as per local law mandates.

The McV Labor and Employment Group is ready to guide employers in the process of drafting and implementing workplace anti-harassment policies, as well as to provide required trainings to executives, managers, supervisors and employees. Remember they must be in place on or before the **August 2, 2021** deadline.

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