



**STATE OF ILLINOIS**  
**DEPARTMENT OF HUMAN RIGHTS**

**2019 ANNUAL REPORT OF ADVERSE JUDGMENTS AND ADMINISTRATIVE RULINGS  
DISCLOSED BY ILLINOIS EMPLOYERS CONCERNING  
SEXUAL HARASSMENT AND DISCRIMINATION**

**DECEMBER 2020**



**JAMES L. BENNETT**  
**DIRECTOR**

You can obtain reports by contacting:

Office of the Director  
Illinois Department of Human Rights  
100 W Randolph Street, Suite 10-100  
Chicago, IL 60601

(312) 814-6245 or TTY: (866) 740-3953

OR

This Report is also available on the worldwide web at

[www.illinois.gov/dhr](http://www.illinois.gov/dhr)



JAMES L. BENNETT, DIRECTOR

***To the Speaker and Minority Leader of the House of Representatives,  
the President and Minority Leader of the Senate,  
the Members of the General Assembly,  
and the Governor:***

This is our calendar year 2019 report of adverse judgments and administrative rulings disclosed by Illinois employers to the Illinois Department of Human Rights ("Department") concerning sexual harassment and discrimination.

This report was prepared pursuant to Public Act 101-0221 which amended the Illinois Human Rights Act by adding a requirement that Illinois employers disclose annually to the Department each adverse judgment or administrative rulings against them in the preceding calendar year under applicable laws prohibiting sexual harassment or unlawful discrimination; and that the Department publish an annual report aggregating the information reported by employers.

The report is transmitted in conformance with Section 5/2-108(E) of the Illinois Human Rights Act.

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Chicago, Illinois  
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## Employer Disclosure Requirements

Effective January 1, 2020, Public Act 101-0221 amended the Illinois Human Rights Act, requiring Illinois employers to disclose annually to the Department of Human Rights, (“Department”), each “adverse judgment or administrative ruling” against them in the preceding calendar year under applicable laws prohibiting sexual harassment or unlawful discrimination. See 775 ILCS 5/2-108(B).<sup>1</sup>

An “adverse judgment or administrative ruling” is defined as “any final and non-appealable adverse judgment or final and non-appealable administrative ruling entered in favor of an employee [as defined by the Act] or a nonemployee to whom an employer owes a duty [as defined by the Act], and against the employer during the preceding year in which there was a finding of sexual harassment or unlawful discrimination brought under this Act, Title VII of the Civil Rights Act of 1964, or any other federal, State, or local law prohibiting sexual harassment or unlawful discrimination.” See 775 ILCS 5/2-108(A)(3).

The Department is required to file with the General Assembly and make available to the general public by December 31 of each reporting year an “annual report” aggregating the information reported by employers. See 775 ILCS 5/2-108(E). The following information constitutes the first such annual report.

### Types of Disclosures and Reporting Timelines

Beginning July 1, 2020, and by each July 1 thereafter, employers are required to report annually to the Department the following information:

- (1) The total number of adverse judgments or administrative rulings during the preceding year;
- (2) Whether any equitable relief was ordered against the employer in any adverse judgment or administrative ruling described in paragraph (1);
- (3) How many adverse judgments or administrative rulings described in paragraph (1) are in each of the following categories:
  - (a) Sexual harassment;
  - (b) Discrimination or harassment on the basis of sex;
  - (c) Discrimination or harassment on the basis of race, color, or national origin;
  - (d) Discrimination or harassment on the basis of religion;
  - (e) Discrimination or harassment on the basis of age;
  - (f) Discrimination or harassment on the basis of disability;
  - (g) Discrimination or harassment on the basis of military status or unfavorable discharge from military status;
  - (h) Discrimination or harassment on the basis of sexual orientation or gender identity; and
  - (i) Discrimination or harassment on the basis of any other characteristic protected under this Act[.]

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<sup>1</sup> For purposes of the reporting requirement, “employer” is defined as “... (a) any person employing one or more employees within this State; (b) a labor organization; or (c) the State and any political subdivision, municipal corporation, or other governmental unit or agency, without regard to the number of employees.” See 775 ILCS 5/2-108(A)(1).

To facilitate data collection and reporting, the Department created an on-line reporting form for use by employers who had adverse judgments and administrative rulings entered against them. The [2019 Form IDHR 2-108](#) (attached as **Appendix A**) was designed to facilitate the reporting and capture the data by protected category (basis) as required by Section 5/2-108(B) of the Act.

The Department also created an [FAQ for Employers Under 5/2-108](#) (FAQ) to assist with specific inquiries. (attached as **Appendix B**).

The reporting period for calendar year 2019 began on July 1, 2020, and in order to facilitate the preparation of the Department's end-of-year report to the General Assembly, disclosures were due to the Department on or before October 31, 2020.<sup>2</sup> For subsequent calendar years, the deadline for disclosures will occur annually on July 1. The Department's published reporting schedule for the current and subsequent reporting periods is as follows:

<b>Calendar Year (CY)</b>	<b>Reporting Period</b>	<b>Filing Deadline</b>
CY 2019	Jan. 1, 2019 to Dec. 31, 2019	October 31, 2020
CY 2020	Jan. 1, 2020 to Dec. 31, 2020	July 1, 2021
CY 2021	Jan. 1, 2021 to Dec. 31, 2021	July 1, 2022
CY 2022	Jan. 1, 2022 to Dec. 31, 2022	July 1, 2023

## **Calendar Year 2019 Aggregated Data**

The Department is required to “publish an annual report aggregating the information reported by employers under subsection (B),” to include “the number of adverse judgments or administrative rulings filed during the preceding calendar year based on each of the protected classes identified in this Act.” See 775 ILCS 5/2-108(E). Pursuant to the Act, the report does not contain individual employer data, but is a snapshot of all employers who reported adverse judgments and administrative rulings. Data submitted by individual employers to comply with this reporting requirement is confidential and exempt from the Freedom of Information Act. See 775 ILCS 5/2-108(E).

## **Number of Adverse Judgments Reported**

Illinois employers reported a total of three (3) adverse judgments to the Department for calendar year 2019. Of those, none included an award of equitable relief. Section 2-108 also requires that employers report adverse judgments by protected category (basis). Of the three (3) adverse judgments reported: discrimination based on sexual harassment was reported once (1); and discrimination based on an “Other basis” was reported two (2) times. See Table 1.1. for a distribution of adverse judgments reported by protected category (basis).

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<sup>2</sup> The Department promulgated an Emergency Rule providing a reporting deadline of October 31, 2020 in order to aggregate the data for its end-of-year annual report. See [EMERGENCY - 44 Ill. Reg. 16886](#). The Emergency Rule covered the filing of 2019 disclosures because Section 5/2-108(B) provides no reporting deadline for the first year, stating only, “...[b]eginning July 1, 2020...” However, the statute directly provides a deadline for filing of disclosures that will occur for calendar years 2020 and thereafter, stating, “...by each July 1 thereafter...” (emphasis added).

**TABLE 1.1 Adverse Judgments Reported by Protected Category (Basis)**

Protected Category (Basis)	Number of Adverse Judgments
Sexual Harassment	1
Sex	0
Race, Color or National Origin	0
Religion	0
Age	0
Disability	0
Military Status/Unfavorable Discharge	0
Sexual Orientation/Gender Identity	0
Other basis under the IHRA	2
<b>Total</b>	<b>3</b>

**Number of Administrative Rulings Reported**

Illinois employers reported a total of six (6) administrative rulings to the Department for calendar year 2019. Of those, none included an award of equitable relief. Section 2-108 also requires that employers report administrative rulings by protected category (basis). Of the six (6) administrative rulings reported: discrimination based on sexual harassment was reported once (1); discrimination based on sex was reported two (2) times; discrimination based on disability was reported three (3) times; and discrimination based on an “Other basis” was reported six (6) times. It is important to note that the total number of administrative rulings will not always match the total number of protected categories reported because one administrative ruling may involve more than one basis. For example, an administrative ruling entered against Employer ABC for discriminating against an employee on the basis of her sex, her religion and a disability would be counted as one administrative ruling with three bases. See Table 1.2. for a distribution of administrative rulings by protected category (basis).

**TABLE 1.2 Administrative Rulings Reported by Protected Category (Basis)**

Protected Category (Basis)	Number of Administrative Rulings
Sexual Harassment	1
Sex	2
Race, Color or National Origin	0
Religion	0
Age	0
Disability	3
Military Status/Unfavorable Discharge	0
Sexual Orientation/Gender Identity	0
Other basis under the IHRA	6
<b>Total</b>	<b>12</b>



## Comparing Adverse Judgments and Administrative Rulings

Illinois employers reported a greater number of administrative rulings than adverse judgments, six (6) and three (3) respectively. Of the administrative rulings and adverse judgments reported, none included an order of equitable relief.

**TABLE 1.3 Employer Disclosures by Adverse Judgments and Administrative Rulings**

Type of Disclosure	Number	Number with Equitable Relief
Adverse Judgments	3	0
Administrative Rulings	6	0
<b>Total</b>	<b>9</b>	<b>0</b>

**TABLE 1.4 Adverse Judgments and Administrative Rulings by Protected Category (Basis)**

Protected Category (Basis)	Number of Adverse Judgments	Number of Administrative Rulings	Total
Sexual Harassment	1	1	2
Sex	0	2	2
Race, Color or National Origin	0	0	0
Religion	0	0	0
Age	0	0	0
Disability	0	3	3
Military Status/Unfavorable Discharge	0	0	0
Sexual Orientation/Gender Identity	0	0	0
Other basis under the IHRA	2	6	8
<b>Total</b>	<b>3</b>	<b>12</b>	<b>15</b>

## Conclusion

Given the low number of employers reporting adverse judgments and administrative rulings during the first year of data collection and the hardships posed by COVID-19, the Department will continue to accept calendar year 2019 disclosures past the filing deadline. The Department will also increase its outreach efforts to the business community to ensure employers are aware of their reporting responsibilities.

# APPENDIX A: 2019 Form IDHR 2-108

## Illinois Department of Human Rights 2019 Form IDHR 2-108

### Report of Final Non-Appealable Adverse Judgments/Administrative Rulings

#### General Instructions:

- All fields in this form are required. If a field does not apply, please indicate "NA" or "Not Applicable."
- For Step 2 (Lines 3 through 22) and Step 3 (Lines 26 through 44), all fields should have a numerical value of either zero for none or the number that corresponds with the number count of adverse judgments, administrative rulings and/or basis that were the subject of the judgments and/or rulings.

#### Step 1: Identify your organization

<b>A</b>	Enter your complete legal business name.	<input type="text"/>
<b>B</b>	Enter your mailing address.	
	Street number and name	<input type="text"/>
	Suite	<input type="text"/>
	City	<input type="text"/>
	State	<input type="text"/>
	Zip Code	<input type="text"/>
<b>C</b>	Select your organization type.	
		<input type="checkbox"/> Labor Organization
		<input type="checkbox"/> State of Illinois or any political subdivision, municipal corporation, or other governmental unit or agency?
		<input type="checkbox"/> Employer with 1 or more employees
<b>D</b>	How many employees did you employ during the reporting calendar year?	<input type="text" value="0"/>
<b>E</b>	Enter your Federal Employer Identification Number (FEIN)	<input type="text"/>
<b>F</b>	Enter your North American Industry Classification System (NAICS) Code.	<input type="text"/>
<b>G</b>	If you hold an Illinois Department of Human Rights Eligibility Number to bid on public contracts, enter it here.	<input type="text"/>

**Step 2: Figure your Final and Non-Appealable Adverse Judgments**

1	How many final and non-appealable adverse judgments were entered against your organization during this reporting calendar year?	0
2	How many of the final and non-appealable adverse judgments included an order of equitable relief?	0

**How many of the adverse judgments were ON THE BASIS OF**

3	Arrest Record	0
4	Age	0
5	Ancestry	0
6	Citizenship Status	0
7	Color	0
8	Disability	0
9	Gender Identity	0
10	Marital Status	0
11	Military Service, Unfavorable Discharge from	0
12	Military Status	0
13	National Origin	0
14	Order of Protection Status	0
15	Pregnancy	0
16	Race	0
17	Religion	0
18	Retaliation	0
19	Sex	0
20	Sexual Harassment	0
21	Sexual Orientation	0
22	Other basis under the IHRA	0
23	<b>Total Bases. Add Lines 3 through 22.</b>	0

**Step 3: Figure your Final and Non-Appealable Administrative Rulings**

24	How many final and non-appealable administrative rulings were entered against your organization during this reporting calendar year?	0
25	How many of the final and non-appealable administrative rulings reported included an order of equitable relief?	0

**How many of the administrative rulings were ON THE BASIS OF**

26	Arrest Record	0
27	Age	0
28	Ancestry	0
29	Citizenship Status	0
30	Color	0
31	Disability	0

32		Gender Identity	0
33		Marital Status	0
34		Military Service, Unfavorable Discharge from	0
35		Military Status	0
36		National Origin	0
37		Order of Protection Status	0
38		Pregnancy	0
39		Race	0
40		Religion	0
41		Sex	0
42		Sexual Harassment	0
43		Sexual Orientation	0
44		Other basis under the IHRA	0
45		Total Administrative Rulings. Add Lines 26 through 44.	0

**Step 4: Sign below. I state that I have examined this report, and to the best of my knowledge, it is true, correct and complete and in accordance with 775 ILCS 5/2-108.**

Signature of authorized officer		Title	Date (mm/dd/yyyy)
Printed name of authorized officer	Email	Phone	Fax

**Step 5: File Report with the Illinois Department of Human Rights on or before October 31, 2020 by:**

**Email to:** [IDHR.Section2-108@Illinois.gov](mailto:IDHR.Section2-108@Illinois.gov)

**Mail to:** Illinois Department of Human Rights  
Attn: Legal Division/2-108 Reports  
100 West Randolph, Suite 10-100  
Chicago, Illinois 60601

**Questions** regarding this form may be directed to [IDHR.Section2-108@Illinois.gov](mailto:IDHR.Section2-108@Illinois.gov) or (312)814-6262.

## APPENDIX B: FAQ for Employers Under 5/2-108



State of Illinois  
Department of Human Rights

### FAQ FOR EMPLOYERS UNDER SECTION 5/2-108

#### FAQ for Employers under Section 5/2-108

##### **Employers Must Report Adverse Judgments or Administrative Rulings**

Beginning July 1, 2020, and by each July 1 thereafter, each employer that had an adverse judgment or administrative ruling against it in the preceding calendar year shall disclose annually to the Department of Human Rights, ("IDHR" or "Department"), the following information: the total number of adverse judgments or administrative rulings during the preceding year; whether any equitable relief was ordered; and the number of adverse judgments or administrative rulings entered against the employer within specific categories outlined in [Section 2-108\(B\)](#) of the Illinois Human Rights Act, ("IHRA").

##### **Are disclosures of adverse judgments or administrative rulings due on July 1, 2020?**

No. The employer reporting period for 2019 begins on July 1, 2020. In 2020, the disclosures will be due by October 31, 2020. For subsequent calendar years, the deadline is July 1<sup>st</sup>. See [Section 2-108](#) of the IHRA.

Below is a schedule:

Calendar Year (CY)	Reporting Period	Filing Deadline
CY 2019	Jan. 1, 2019 to Dec. 31, 2019	October 31, 2020
CY 2020	Jan. 1, 2020 to Dec. 31, 2020	July 1, 2021
CY 2021	Jan. 1, 2021 to Dec. 31, 2021	July 1, 2022
CY 2022	Jan. 1, 2022 to Dec. 31, 2022	July 1, 2023

##### **Which employers are required to make disclosures of adverse judgments or administrative rulings?**

Almost all employers are covered by [Section 2-108](#) of IHRA and are required to make disclosures. An "employer" includes:

- (a) any person employing one or more employees in Illinois; (b) a labor organization (for example, a union); or
- (c) State government, municipal corporations, or other governmental units or agencies within the state of Illinois.

##### **What is an "adverse judgment or administrative ruling?"**

An "adverse judgment or administrative ruling" means any final and non-appealable judgment that finds sexual harassment or unlawful discrimination, where the ruling is in the employee's favor and against an employer. Examples may include a final order against an employer issued by a State of Illinois tribunal such as the Illinois Human Rights Commission; a local unit of government such as the Cook County Commission on Human Rights or 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 of 1964, the Age Discrimination in Employment Act or the Americans with Disabilities Act would also qualify once the judgment is no longer appealable. See [Section 2-108\(A\)\(3\)](#). Decisions in unemployment insurance proceedings are not considered adverse judgments or administrative rulings, and need not be included.

#### **Illinois Department of Human Rights**

Phone: 312-814-6200 Fax: 312-814-6251 Email: [IDHR.Intake@illinois.gov](mailto:IDHR.Intake@illinois.gov) or [IDHR.Webmail@illinois.gov](mailto:IDHR.Webmail@illinois.gov)



**What information is required to be disclosed for each adverse judgment or administrative ruling?**

Only the **number** of adverse judgments or administrative rulings must be disclosed for each of the following categories: sexual harassment, discrimination or harassment on the basis of sex, discrimination or harassment on the basis of race, color, or national origin, discrimination or harassment on the basis of religion, discrimination or harassment on the basis of age, discrimination or harassment on the basis of disability, discrimination on the basis of military status or unfavorable discharge from military status, discrimination or harassment on the basis of sexual orientation or gender identity, and discrimination or harassment on the basis of any other characteristic protected under the IHRA. See [Section 2-108\(B\)\(3\)](#).

**Is an employer required to report adverse judgments and administrative rulings that are entered in jurisdictions outside Illinois?**

Yes, an employer is required to report adverse judgments or administrative rulings that are entered in jurisdictions outside of Illinois if (1) the judgment or ruling is in favor of an “employee” as defined in [Section 2-101\(A\)](#) or “nonemployee” as defined in [Sections 2-102\(A-10\)](#) or [2-102\(D-5\)](#) of the IHRA; and (2) the judgment or ruling is against an “employer” as defined in [Section 2-108\(A\)\(1\)](#) of the IHRA.

**If the employer has had no adverse judgments or administrative rulings, does this need to be reported to IDHR?**

No. Only employers who have had one or more adverse judgments or administrative rulings against them in a given calendar year are required to disclose the required information to IDHR by July 1<sup>st</sup> of the following year. See [Section 2-108\(B\)](#).

**Does IDHR have a specific form that the employer should use?**

Yes, employers can file their [Section 2-108](#) disclosure report with IDHR by downloading **Form IDHR 2-108** (available for download on July 20, 2020) from [WWW.ILLINOIS.GOV/DHR](http://WWW.ILLINOIS.GOV/DHR) and filing it with IDHR on or before October 31, 2020.

**Can employers file their Section 2-108 disclosure report online? If not, where should it be sent?**

Yes, employers can file their [Section 2-108](#) disclosure report online by downloading **Form IDHR 2-108** (available for download on July 20, 2020) from [WWW.ILLINOIS.GOV/DHR](http://WWW.ILLINOIS.GOV/DHR) and emailing it to [IDHR.WEBMAIL@ILLINOIS.GOV](mailto:IDHR.WEBMAIL@ILLINOIS.GOV) on or before October 31, 2020.

**Are employers required to report settlements as part of its annual disclosure of adverse judgments and administrative rulings under Section 5/2-108(C)?**



No. Employers are not required to report settlements as part of their annual disclosures of adverse judgments or administrative rulings. See [Section 5/2-108\(C\)](#).

**Under what circumstances are employers required to report settlements to the Department?**

The Department has the right to request that an employer, against whom a charge of discrimination has been filed under the IHRA, submit the total number of settlements entered into during the preceding 5 years or less as part of the Department's investigation process.

**Is there any information pertaining to an adverse judgment or administrative ruling that an employer is prohibited from disclosing?**

Yes. An employer is prohibited from disclosing the name of a victim of an act of alleged sexual harassment or unlawful discrimination in any of the required disclosures. See [Section 5/2-108\(D\)](#).

**What are the penalties for failure to report adverse judgments or administrative rulings to the Department?**

If an employer fails to make the required disclosures, 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 Department shall petition the Illinois Human Rights Commission for entry of an order imposing a civil (financial) penalty. See [Section 2-108\(F\)](#).

The civil penalties for failure to report are based on the number of employees and are higher for larger employers. The penalties also increase based on the number of offenses.

Specifically, for employers with fewer than 4 employees, the maximum penalty for a first offense is \$500, a second offense is \$1,000, and third and subsequent offenses is \$3,000. For employers with 4 or more employees, the maximum penalty for a first offense is \$1,000, a second offense is \$3,000, and a third and subsequent offenses is \$5,000. See [Section 8-109.1](#).

**For more information:**

- Visit IDHR's website at [WWW.ILLINOIS.GOV/DHR](http://WWW.ILLINOIS.GOV/DHR); and
- View [Sections 2-108\(F\)](#) and [Section 8-109.1](#) of the Illinois Human Rights Act.

**Illinois Department of Human Rights**

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