

Sexual Harassment Prevention Training and Documentation Compliance for Tipped Wage Workers Fairness Amendment Act *Frequently Asked Questions*

December 2022

I. Introduction & Background

The Tipped Wage Workers Fairness Amendment Act of 2018 (“the Act”), D.C. Code § 2-1411.05a, which amended the District of Columbia Human Rights Act of 1977, requires employers in the District of Columbia who hire employees earning tips as wages to provide sexual harassment training to all employees, managers, owners, or operators of that organization.

II. What does the Act require?

The Act has **two** main compliance components: (1) Training; and (2) Document Submission. See the details below for each.

1. Training Compliance Requirements

Who must get the training?

- Employers must provide an anti-sexual harassment training course to the following individuals:
 - Employees,
 - Managers,
 - Owners, and
 - Operators

What must the training include?

- The anti-sexual harassment training course must include how to respond to, intervene in, and prevent sexual harassment by co-workers, management, and patrons.

How can training be conducted?

- Training may be conducted using an OHR certified trainer
- See table below for frequency of training and how the training must be delivered.

Training Requirements		
Covered Individuals	Training Platform	Frequency
Manager	Must complete live in-person training.	Every 2 years
Owner or operator	Must complete training either live in-person or online.	Every 2 years
Employee	Must complete training either live in-person or online.	Every 2 years
New Employee	Must complete training either live in-person or online.	No later than 90 days after hire, unless the employee received the training within the past 2 years.

2. Document Submission Compliance Requirements

- Sexual harassment policy
Employers must:
 - Have a sexual harassment policy outlining how employees can report instances of sexual harassment to management and to OHR.
 - Distribute their sexual-harassment policy to all employees and post it in a conspicuous place accessible to all employees.
 - File the sexual harassment policy with OHR.
- Internal sexual harassment complaints
Employers must:
 - Submit to OHR the number of instances of sexual harassment reported to management.
 - Submit to OHR the total number of reported harassers who were 1) non-managerial employees, 2) managerial employees, 3) owners, or 4) operators.

III. Frequently Asked Questions

Who is considered a tipped wage worker?

Currently, a 'tipped wage worker' is a worker who earns a cash wage of at least \$5.35/hour, and who earns at least \$10.75/hour in tips.

Sexual Harassment Policy Documentation and Certifications

1. How can employers submit the required documents and certifications to OHR?

Employers can submit these documents and information through OHR's Tipped Wage Documents and Certifications Online Form available at: <https://forms.dc.gov/f/OHRTWWFForm>

2. What is the deadline to submit these documents and information?

D.C. Code § 2-1411.05a(f)(4) requires employers to **annually submit** (1) the total number of instances of sexual harassment reported to management, and (2) the number of reported harassers who were non-managerial employees, managerial employees, owners, or operators.

- For calendar years 2020 and 2021, employers should submit this information by March 31, 2023. OHR will use documents and information submitted for calendar years 2020 and 2021 for informational purposes only.
- For calendar year 2022, employers should submit this information by May 31, 2023.
- For subsequent calendar years, employers should submit this information by March 31 of the next year (*i.e.*, for 2023, employers should submit this information by March 31, 2024).

3. What if the employer has no sexual harassment claims?

If no incidents of sexual harassment were reported during a calendar year, employers must nevertheless, submit the Documents and Certifications Online Form, and indicate that the number of claims is 0.

4. What if one of the locations of organization is no longer in operation?

If one of the locations of the organization is no longer in operation, the employer must nevertheless submit the Documents and Certifications Online Form for the years that the location was in operation (starting in 2020).

5. What if my organization is opening later in the year?

The employer should submit the Documents and Certifications Online Form within 90 calendar days of opening.

6. What if the employer has multiple locations in the District of Columbia?

Employers must submit a separate Documents and Certifications Online Form for each location in the District of Columbia.

Mandatory Anti-Sexual Harassment Training

7. Who must take the training?

All employees, managers, owners, and operators of any organization in the District of Columbia that employs tipped-waged employees.

8. What is an operator?

An operator is any person who oversees the general operation of the organization.

9. Where is the training available?

Employers can contact OHR-certified trainers to schedule their training sessions. The list of certified training providers is available on OHR's website at:

ohr.dc.gov/page/tipped-wage-workers-fairness-act

10. What is the cost of the training?

OHR does not determine how much trainers can charge employers to provide the training. Employers can contact certified trainers to ask for pricing and compare rates.

11. What is the deadline to complete the training?

Employers should complete this training by August 31, 2023.

12. What is the deadline for employers to report that the training was completed?

Employers should submit their training completion report to tipsdc@dc.gov no later than 30 calendar days after completion of the training. The template of the report will be provided by the certified trainer who facilitates the training to the employer.

13. What about employers that have already provided anti-sexual harassment training in 2022 through non-certified providers?

The employer will be deemed to be in compliance if they submit documentation verifying that they provided anti-sexual harassment training in 2022 to tipsdc@dc.gov. Documentation should be submitted by May 31, 2023.

14. What about employers that provided the training prior to 2022?

Employers must provide the anti-sexual harassment training every two years. For example, if the employer provided anti-sexual harassment training in March 2021, they must provide another anti-sexual harassment training through a certified trainer by March 2023. Please contact tipsdc@dc.gov for more information regarding training requirements.

15. What is the process to become a certified trainer?

Please reach out to tipsdc@dc.gov to enroll in OHR's anti-sexual harassment trainer certification course.

How to file a complaint with the Office of Human Rights

Within one year of the incident, complete an intake questionnaire. Intake Questionnaires can be filed:

- **Online:** ohr.dc.gov
- **In-Person/Mail:** 441 4th Street NW, Suite 570N, Washington, DC 20010
- **Email:** intake@ohr.dc.gov
- **Fax:** (202) 727-9589

If you have any questions about the Tipped Wage Workers Fairness Amendment Act or if you would like to submit an anonymous tip, please email tipsdc@dc.gov. For more information, visit the website by clicking the link below or scanning the QR code:

<https://ohr.dc.gov/page/tipped-wage-workers-fairness-act>

