



For Employers in Illinois: FAQ regarding SECTION 5/2-108

Employers Must Report Adverse Judgments or Administrative Rulings

By each July 1, every 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”).

When are disclosures of adverse judgments or administrative rulings due each year?

The **deadline** to file disclosures of adverse judgments or administrative rulings is July 1st following each reporting period. See [Section 2-108](#) of the IHRA.

Below is a schedule:

Calendar Year (CY)	Reporting Period	Filing Deadline
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.

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 1st 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** from IDHR’s website (<https://dhr.illinois.gov/#adversejudgments>) and filing it with IDHR on or before July 1st following each reporting period.

FAQ for Employers under [Section 5/2-108](#)

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** from dhr.illinois.gov/#adversejudgments and emailing it to idhr.section2-108@illinois.gov on or before July 1st following each reporting period.

Are employers required to report settlements as part of its annual disclosure of adverse judgements 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 judgements 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 online at <https://dhr.illinois.gov>



The Illinois Department of Human Rights (IDHR)
Phone (312) 814-6200 | TTY (866) 740-3953 | email idhr.section2-108@illinois.gov
dhr.illinois.gov