

GUIDELINES TO THE ADMINISTRATORS OF THE LABOR-RELATED ACCIDENTS AND PROFESSIONAL DISEASES INSURANCE REGARDING KARIN LAW IN CHILE ARE PROVIDED

On August 1st, 2024, Law No.21,643 which amends the Labor Code regarding the prevention, investigation and sanctioning of labor, sexual harassment and workplace violence (the “Law”), will enter into force.

General Ruling No.3813 (“General Ruling”), issued by the Superintendence of Social Security (“SUSESO”) on June 7th, 2024, provides technical assistance in all matters covered by the new Article 211-A of the Labor Code. This Article entrusts the SUSESO with the responsibility of providing guidelines regarding the Law to the administrators of the labor-related accidents and professional diseases insurance as per Law No.16.744 (the “Administrators”).

The General Ruling sets forth guidelines and instructions for the Administrators and employers for the creation and execution of a protocol aimed at preventing sexual harassment, labor harassment, and workplace violence (the “Protocol”); the design of a model for employers to communicate employees the procedures for reporting violations related to prevention measures, investigations, and sanctions in these areas, as well as state entities to report any violation to labor law and to access to social security benefits; and the provision of early psychological treatment supporting employees who have been affected by these issues.

The main aspects covered by the General Ruling are as follows:

- During the Protocol’s development and implementation process, the employees’ participation must be considered through their respective union and respective instances (Health and Safety Committees).
- In addition to the minimum requirements outlined in the third paragraph of new Article 211-A of the Labor Code, the Protocol must include a policy to prevent sexual and labor harassment, and

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workplace violence within the employing institution. This policy should consider the employer's commitment to:

- The principles of the National Policy on Safety and Health at Work, considering as a fundamental right to life and the physical and psychological integrity of employees; the development of a preventive approach to safety and health in the workplace involving proactive risk management in work environments; gender equity and diversity, universality and inclusion, continuous improvement, and risk management responsibility.
- Principles for preventive management in matters of psychosocial risks in the workplace such as a strict zero tolerance policy, core values, participation and social dialogue, and controlling risks at their source.
- Regarding the identification of hazards and assessment of psychosocial risks related to sexual and labor harassment, as well as workplace violence, the General Ruling defines the concept of psychosocial risk factors. It also emphasizes certain psychosocial risk factors, such as excessive workload, lack of recognition for effort, inequity within the organization, vulnerability and other similar factors that, when mismanaged, can trigger or contribute to be the cause of subsequent harassment and workplace violence behaviors. Furthermore, are mentioned (and exemplified) uncivil and sexist behaviors (including unconscious or benevolent sexism) as psychosocial risk factors that must be eradicated as they can potentially escalate into violent and harassing behaviors, particularly those that are gender-based.
- In addition to formulating and executing the Protocol, employers are mandated to inform their employees biannually about the available channels for the reception of complaints related to the prevention, investigation, and sanctioning of labor and sexual harassment, or workplace violence. Employers are required to design these channels and maintain a documented record as proof of communication to employees. Moreover, employers are obligated to educate employees about the governmental bodies where labor law violations can be reported, and social security benefits can be availed. This information should encompass various reporting and access channels, including specific websites, contact numbers, and physical office locations.
- Regarding the employer's obligation to offer early psychological support to affected employees, it is incumbent upon the employer to inform employees about the availability of early psychological care programs provided by the Administrators in case of labor harassment

and workplace violence. The employer's referral is an integral part of the protective measures that must be in place for the affected employee, without infringing upon the victim's right to voluntary assistance.

- Lastly, the General Ruling includes resources and tools designed to provide technical assistance to employers, among which stands out a Protocol model that employing entities can adapt and implement with the assistance of the Administrator, and a suggested guideline to evaluate psychosocial risks, violence and harassment at work, as well as establishing preventive measures for companies with less than 10 employees, who are exempt from the obligation to implement the CEAL-SM/SUSESO questionnaire.

The instructions and directions contained in the General Ruling have become enforced from the date of its issuance.

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