

# State of Illinois Harassment and Discrimination Prevention Training



Prepared for the Legislative Branch  
by the Legislative Reference Bureau

## Purpose and Content

- This training is designed to meet the harassment and discrimination prevention training requirements of the State Employees and Officials Ethics Act (5 ILCS 430/5-10.5), as amended by Public Acts 101-221 and 101-617, with a focus on the requirements of the Legislative Branch.
- This training incorporates materials from the 2020 Model Sexual Harassment Prevention Training program created by the Department of Human Rights, and is also designed to meet the sexual harassment prevention training requirements of the Illinois Human Rights Act (775 ILCS 5/2-109(B)).
- Comments and suggestions are welcome and may be directed to the Legislative Reference Bureau at [dodgej@ilga.gov](mailto:dodgej@ilga.gov).

# Outline of Training

I. Overview

II. Unlawful Discrimination

III. Harassment

IV. Sexual Harassment

V. Reporting

VI. Retaliation

VII. Consequences

# I. Overview

## Scope of Training

This training will provide you with information about:

- Identifying unlawful discrimination, harassment, and sexual harassment.
- How to report suspected unlawful discrimination, harassment, and sexual harassment.
- Preventing retaliation against whistleblowers.
- Consequences for unlawful discrimination, harassment, and sexual harassment.
- Consequences for making false reports.

# Harassment and Discrimination are Prohibited

State employees, officials, and appointees are prohibited from engaging in unlawful discrimination, harassment, and sexual harassment.

In addition to the policies prohibiting unlawful discrimination, harassment, and sexual harassment that have been adopted by the General Assembly and each agency of the Legislative Branch:

- Unlawful discrimination, harassment, and sexual harassment are prohibited by the [Illinois Human Rights Act](#).
- Unlawful discrimination is a violation of the [Illinois Civil Rights Act of 2003](#).
- Sexual harassment is a violation of the [State Officials and Employees Ethics Act](#).

# Training is Required

The State Officials and Employees Ethics Act:

- Requires “each officer, member, and employee [to] complete, at least annually, a harassment and discrimination prevention training program,” ([5 ILCS 430/5-10.5\(a-5\)](#)).
- Requires the Legislative Ethics Commission to publicize the names of those who fail to complete their training ([5 ILCS 430/5-10.5\(b\)](#)).

## II. Unlawful Discrimination



## What is Unlawful Discrimination?

Unlawful discrimination is defined by the Illinois Human Rights Act as “discrimination against a person because of his or her actual or perceived: race, color, religion, national origin, ancestry, age, sex, marital status, order of protection status, disability, military status, sexual orientation, pregnancy, or unfavorable discharge from military service...” ([775 ILCS 5/1-103\(Q\)](#)).

- Each of the highlighted categories is a protected class under the Act.

## When Does Unlawful Discrimination Occur?

Unlawful discrimination happens when an employer takes an employment action (e.g., decisions on hiring, promotion, job duties, compensation, discharge, etc.) based on an applicant's or employee's actual or perceived membership in one of the protected classes.

- Membership in a protected class does not prevent an employer from taking an employment action for a reason not related to the applicant's or employee's membership in a protected class (e.g., discharge due to falsifying time and attendance records).

# What are the Protected Classes?

Under the Illinois Human Rights Act, the protected classes include:

- Age: a person who is at least 40 years old.
- Citizenship Status: (1) a born or a naturalized U.S. citizen; (2) a U.S. national; or (3) a person born outside the U.S. and not a U.S. citizen who is not an unauthorized alien and who is protected from discrimination under federal law.
- Disability: a physical or mental characteristic of a person, including one that necessitates the person's use of a guide, hearing, or support dog, the history of such a characteristic, or the perception of such a characteristic, regardless of the cause of the characteristic, and which is unrelated to the person's ability to perform the duties of a particular job or position.
- Marital Status.

## What are the Protected Classes? (continued)

Under the Illinois Human Rights Act, the protected classes include:

- **Military Status:** as an active duty or reserve member, or a veteran, of the armed forces of the U.S. or the Illinois National Guard.
- **National Origin:** the place where a person or one of their ancestors was born.
- **Order of Protection Status:** protected by an order of protection, whether issued by an Illinois court or a court in another state.
- **Pregnancy:** includes pregnancy, childbirth, and medical or common conditions related to pregnancy or childbirth.
- **Religion:** all aspects of religious observance, practice, and belief, unless an employer demonstrates that they are unable to reasonably accommodate an employee's or prospective employee's religious observance or practice without undue hardship on the conduct of the employer's business.

## What are the Protected Classes? (continued)

Under the Illinois Human Rights Act, the protected classes include:

- Sex. Actual or perceived status of being male or female.
- Sexual Orientation. Actual or perceived, including gender-related identity, whether or not associated with the person's designated sex at birth.
- Unfavorable Military Discharge. General discharges that bar re-enlistment, classified as RE-3 or the equivalent (but not including those classified as RE-4 or "Dishonorable").

## What are the Protected Classes? (continued)

Under the Illinois Human Rights Act, the protected classes include:

- Race, color, and ancestry (which are not defined by the Act).

U.S. Equal Employment Opportunity Commission [guidance](#) provides the following, based on Title VII of the federal Civil Rights Act of 1964:

- Race: physical characteristics associated with race, race-linked illness, or cultural characteristics often linked to race or ethnicity.
- Color: lightness, darkness, or other color characteristic.
- Ancestry: racial or ethnic ancestry.

# Civil Rights Violations

## General Provisions:

- Under the Illinois Human Rights Act, it is a civil rights violation for “any employer to refuse to hire, to segregate, to engage in harassment..., or to act with respect to recruitment, hiring, promotion, renewal of employment, selection for training or apprenticeship, discharge, discipline, tenure or terms, privileges or conditions of employment on the basis of unlawful discrimination or citizenship status.” ([775 ILCS 5/2-102\(A\)](#)).

# Civil Rights Violations

Specific Listed Areas Where Violations Can Occur:

- Language
- Religious discrimination
- Training and apprenticeship programs
- Immigration-related practices
- Pregnancy
- Arrest records



## Civil Rights Violations: Language

It is a civil rights violation for an employer “to impose a regulation that has the effect of prohibiting a language from being spoken by an employee in communications that are unrelated to the employee's duties.” ([775 ILCS 5/2-102\(A-5\)](#))

- “Language” means a person's native tongue, such as Polish, Spanish, or Chinese.
- “Language” does not include such things as slang, jargon, profanity, or vulgarity.

## Civil Rights Violations: Religious Discrimination

It is a civil rights violation “for any public employer to refuse to permit a public employee under its jurisdiction who takes time off from work in order to practice his or her religious beliefs to engage in work, during hours other than such employee's regular working hours, consistent with the operational needs of the employer and in order to compensate for work time lost for such religious reasons.” ([775 ILCS 5/2-1-2\(E\)](#))

- “Any employee who elects such deferred work shall be compensated at the wage rate which he or she would have earned during the originally scheduled work period.”
- “The employer may require that an employee who plans to take time off from work in order to practice his or her religious beliefs provide the employer with a notice of his or her intention to be absent from work not exceeding 5 days prior to the date of absence.”

## Civil Rights Violations: Religious Discrimination (cont.)

It is a civil rights violation to require an employee “to violate or forgo a sincerely held practice of his or her religion including, but not limited to, the wearing of any attire, clothing, or facial hair in accordance with the requirements of his or her religion,…” Limitations:

- “unless, after engaging in a bona fide effort, the employer demonstrates that it is unable to reasonably accommodate the employee's or prospective employee's sincerely held religious belief, practice, or observance without undue hardship on the conduct of the employer's business.”
- “restrictions on attire, clothing, or facial hair to maintain workplace safety or food sanitation.” ([775 ILCS 5/2-1-2\(E-5\)](#))

## Civil Rights Violations: Training and Apprenticeship Programs

It is a civil rights violation for an employer to ([775 ILCS 5/2-102\(F\)](#)):

- “Discriminate against a person on the basis of age in the selection, referral for or conduct of apprenticeship or training programs.”

## Civil Rights Violations: Immigration-Related Practices

It is a civil rights violation for an employer ([775 ILCS 5/2-1-2\(G\)](#)):

- To require more or different documents than those that are required under federal law.
- To refuse to honor documents that on their face appear to be genuine.
- For employers participating in the federal E-Verify Program, to take unfavorable employment actions without following the procedures required under the E-Verify Program.

# Civil Rights Violations: Reasonable Accommodation for Pregnancy

It is a civil rights violation for an employer to ([775 ILCS 5/2-102\(I\),\(J\)](#)):

- Not make a reasonable accommodation for any medical or common condition of an applicant or employee related to pregnancy or childbirth.
- Require an applicant or employee to accept an accommodation when that individual did not request one.
- Require an employee to take leave, if another reasonable accommodation can be provided.
- Not reinstate the employee to her original job or equivalent position upon her signifying her intent to return or when the need for the reasonable accommodation ends.
- Deny employment opportunities or benefits, or take adverse action because an individual needs a reasonable accommodation.

Exception: where the employer can demonstrate that it would impose an undue hardship on the ordinary operation of the business.

# Civil Rights Violations: Arrest Record

It is a civil rights violation for an employer to inquire into, or to use the fact of, an arrest record as a basis to refuse to hire, or to take any employment-related action ([775 ILCS 5/2-103](#)).

- “Arrest record” includes: juvenile records; arrests not leading to conviction; and criminal history records ordered expunged, sealed or otherwise impounded ([775 ILCS 5/1-103\(B-5\)](#)).
- Exception: this does not prohibit an employer from requesting or using sealed felony conviction information obtained from the Illinois State Police under the Criminal Identification Act (or other State or federal laws or regulations that require criminal background checks) in evaluating the qualifications and character of an employee or a prospective employee.

# Unlawful Discrimination?

## Scenario 1

Employee A is habitually tardy and has received several warnings from Supervisor, including a final written warning indicating that Employee A would be terminated if Employee A was late to work again. Employee A is 45-years old and a naturalized citizen.

Employee A was late to work again on Wednesday, and falsified time and attendance records to hide the tardiness. On Thursday, when Supervisor discovered that Employee A had falsified time and attendance records to hide a late arrival the day before, Supervisor terminated Employee A's employment, telling Employee A that it was because Employee A was late after having received a final warning and because Employee A falsified time and attendance records.

- Has Supervisor unlawfully discriminated against Employee A?



# Unlawful Discrimination?

## Scenario 1

Has Supervisor unlawfully discriminated against Employee A?

- No. Although Employee A is a member of two protected groups (because of her age and her status as a naturalized citizen), Supervisor terminated her employment due to her habitual tardiness and her falsification of time and attendance records (either of which by themselves would be a valid, non-discriminatory reason to terminate employment).
- However, if it could be shown that Supervisor did not terminate other employees who were habitually tardy and/or falsified time and attendance records but who were younger or not naturalized citizens, then Employee A would likely have a claim for unlawful discrimination.

# Unlawful Discrimination?

## Scenario 2

Employee B told Supervisor that she was pregnant. A week later, Supervisor announced that Supervisor was promoting Employee C to be a Project Manager (a position with greater responsibilities and more pay). Employee B told Supervisor that she had more relevant experience than Employee C and had previously served as an Acting Project Manager when another employee became ill.

Supervisor responded, “You would do great. But our next two big projects are due during your first year back from maternity leave, and you’re going to be too busy taking your child to doctor’s appointments to take this on. I just couldn’t do that to you.”

- Has Supervisor unlawfully discriminated against Employee B?

# Unlawful Discrimination?

## Scenario 2

Has Supervisor unlawfully discriminated against Employee B?

- Yes. Regardless of Supervisor's motives, Supervisor has (1) denied Employee B an employment opportunity (a position with greater responsibilities and more pay that Employee B is well-qualified for) because Employee B might need a reasonable accommodation due to pregnancy or childbirth, and (2) may even be requiring Employee B to accept an accommodation when Employee B did not request one.
- What should Supervisor have done? First, consider Employee B's suitability for the position without regard to pregnancy. If Employee B is determined to be the best person for the position, then discuss possible accommodations with Employee B, to find out which accommodations (if any) she would need to do the job.

# III. Harassment

## What is Harassment?

Under the Illinois Human Rights Act, harassment is “any unwelcome conduct on the basis of an individual's actual or perceived race, color, religion, national origin, ancestry, age, sex, marital status, order of protection status, disability, military status, sexual orientation, pregnancy, unfavorable discharge from military service, or citizenship status that has the purpose or effect of substantially interfering with the individual's work performance or creating an intimidating, hostile, or offensive working environment.” ([775 ILCS 5/2-101\(E-1\)](#))

- Protected classes are highlighted.
- “Working environment” is not limited to a physical location an employee is assigned to perform his or her duties.
- As with sexual harassment, the gender of both the victim and the harasser are irrelevant - anyone can be the victim of harassment by anyone.

## What is Harassment? (cont.)

The following can be harassment, if based on a person's actual or perceived actual or perceived race, color, religion, national origin, ancestry, age, sex, marital status, order of protection status, disability, military status, sexual orientation, pregnancy, unfavorable discharge from military service, or citizenship status:

- Slurs, derogatory nicknames, demeaning remarks
- Offensive jokes, insults, ridicule, mockery
- Intimidation, threats, physical assault

Means of harassment can include offensive objects or images, physical contact, leaning over or cornering, offensive looks or gestures

- Harassment can be in person or by letters, telephone calls, texts, emails, etc.

# Harassment?

## Scenario 1

Employee A is an Iraq War veteran who lost both legs to an improvised explosive device and uses a wheelchair. Growing tired of Employee B's constant questions and demeaning comments about Employee A's service in Iraq, Employee A asks to be transferred to a different unit within the State agency where they both work. Upon learning of Employee A's request for a transfer, Employee B moves a filing cabinet to prevent Employee A's wheelchair from being able to reach the restroom.

- Is Employee B harassing Employee A?

# Harassment?

## Scenario 1

Is Employee B harassing Employee A?

- Yes. Given that Employee B's questions and demeaning comments are related to Employee A's membership in a protected class (**military status** as a veteran), this is clearly harassment. Employee B's movement of the filing cabinet is also harassment. Even though no motive is expressed, Employee B's deliberate actions to block Employee A's wheelchair directly impact Employee A's membership in another protected class (as a person with a **disability**), meaning that this would also be harassment.



# Harassment?

## Scenario 2

Employee C is a Muslim. Employee C abstains from pork in accordance with the teachings of her faith. On those days when Supervisor has a pulled pork sandwich for lunch, Supervisor makes a point of walking by Employee's C's work station while eating the sandwich and saying things like, "I bet you wish you could have one of these," and "I don't know how you can live without barbecue and bacon."

- Is Supervisor harassing Employee C?

# Harassment?

## Scenario 2

Is Supervisor harassing Employee C?

- Yes. Although Supervisor never directly references Employee C's religion, Supervisor's words and conduct mocking Employee C's practice of **religion** (a protected class) are harassment. This is an example of conduct that has the purpose or effect of substantially interfering with a person's work performance or creating an intimidating, hostile, or offensive work environment.
- Note that this same conduct by a (non-supervisory) co-worker would still be harassment\ and would likewise create an intimidating, hostile, or offensive work environment.

# IV. Sexual Harassment

The following content is the 2020 Model Sexual Harassment Prevention Training program created by the Department of Human Rights.

# State of Illinois Sexual Harassment Prevention Training

APRIL 2020



State of Illinois  
Department of Human Rights

[www.Illinois.gov/DHR/Training](http://www.Illinois.gov/DHR/Training)

Helpline: (877) 236-7703  
[www.Illinois.gov/SexualHarassment](http://www.Illinois.gov/SexualHarassment)

## Sexual Harassment Is Prohibited in Illinois

- The Illinois Human Rights Act makes it a civil rights violation “[f]or any employer, employee, agent of any employer, employment agency or labor organization to engage in sexual harassment.” 775 ILCS 5/2-102(D).
- The Illinois General Assembly finds that tolerance of sexual harassment has a detrimental influence in workplaces by creating a hostile environment for employees, reducing productivity, and increasing legal liability.
- The State of Illinois encourages employers to adopt and actively implement policies to ensure their workplaces are safe for employees to report concerns about sexual harassment without fear of retaliation, loss of status, or loss of promotional opportunities.



### 3 | Employers Required to Provide Sexual Harassment Prevention Training for All Employees

- Every employer in the State of Illinois is required to provide employees with sexual harassment prevention training that complies with section 2-109 of the Illinois Human Rights Act (“IHRA”).
- All employees regardless of their status (i.e. short-term, part-time, or intern) must be trained.
- If an employer has an independent contractor working on-site with the employer’s staff, the independent contractor should receive sexual harassment prevention training.



## What Information Will Be Covered

- I. an **explanation of sexual harassment** consistent with the Illinois Human Rights Act;
- II. **examples of conduct** that may constitute unlawful sexual harassment;
- III. a **summary of Federal and State statutory laws** concerning sexual harassment including remedies available to victims; and
- IV. a **summary of employer responsibilities** in the prevention, investigation, and corrective measures of sexual harassment.





## I. What is Sexual Harassment?

Under the Illinois Human Rights Act, “Sexual harassment” means any unwelcome sexual advances, requests for sexual favors, or any conduct of a sexual nature when:

- submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s employment,
- submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or
- such conduct has the purpose or effect of substantially interfering with an individual’s work performance or creating an intimidating, hostile or offensive working environment.





## I. Types of Unlawful Sexual Harassment

- 1. Quid Pro Quo Sexual Harassment.** *“You do something for me, and I’ll do something for you.”* This means that a manager or supervisor may not tell an employee that in order to receive a promotion, raise, preferred assignment, or other type of job benefit – or to avoid something negative like discipline or an unpleasant assignment – the employee must do something sexual in return.
- 2. Hostile Work Environment Sexual Harassment.** *“The air at work is full of sexual references and it is impacting me.”* A hostile work environment may occur when unwelcome sexual advances, requests for sexual favors, or any conduct of a sexual nature has the purpose or effect of substantially interfering with an individual’s work performance or creating an intimidating, hostile or offensive working environment.



## I. Unwelcome Behavior

- Sexual conduct becomes sexual harassment when the behavior is unwelcome. Behavior may be unwelcome in the sense that the victim did not solicit or invite it, or in the sense that the victim regarded the conduct as undesirable or offensive.
- Welcome behavior can quickly become unwelcome behavior. What starts off as welcome behavior (consensual joking) can cross a line and become unwelcome behavior.
- Also, consent can be revoked at any time. When someone experiencing sexual harassment behavior says, "stop talking to me like this" **it must stop**. The perpetrator cannot use as a defense "Well you started it." or "You were ok with it at first."



## I. Working Environment & Nonemployees

- An employee’s “working environment” is not limited to the physical location where the employee is assigned. The “working environment” extends to other work sites including off-site, mobile or moving work sites/locations.
- The prohibition that supervisors and co-workers not engage in sexual harassment now applies to nonemployees such as patrons, vendors, and service providers. Nonemployees can be victims of sexual harassment and/or perpetrators of sexual harassment.



## 9 | I. Gender Identity, Sexual Orientation, and Third Parties (Bystanders)

- All persons can be victims of sexual harassment regardless of the victim's **gender identity** or the perpetrator's gender identity.
- All persons can be victims of sexual harassment regardless of the victim's **sexual orientation** or the perpetrator's sexual orientation.
- Victims of sexual harassment can include not only the target of the sexual harassment, but also **third parties or bystanders**.





## What Information Will Be Covered

- I. an **explanation of sexual harassment** consistent with the Illinois Human Rights Act;
- II. **examples of conduct that may constitute unlawful sexual harassment;**
- III. a **summary of Federal and State statutory laws** concerning sexual harassment including remedies available to victims; and
- IV. a **summary of employer responsibilities** in the prevention, investigation, and corrective measures of sexual harassment.



## II. What are Examples of Inappropriate Conduct?

**Sexual harassment includes unwelcome conduct of a sexual nature (sexual advances and requests for sexual favors). Examples include:**

- Pressure for sexual favors or to go out on a date
- Deliberate touching, leaning over, or cornering another person
- Sexual looks or gestures or whistling at someone
- Sending letters, telephone calls, e-mails, texts, or other materials of a sexual nature
- Sexual teasing, jokes, remarks, or questions
- Referring to another as a “girl,” “hunk,” “doll,” “babe,” “honey,” “tootsie”, etc.
- Actual or attempted rape or sexual assault



## II. continued - Examples of Inappropriate Conduct

**More examples of conduct that may constitute sexual harassment include:**

- Turning work discussions to sexual topics
- Asking about sexual fantasies, preferences, or history
- Sexual comments, sexual innuendos, or sexual stories
- Sexual comments about a person's clothing, body, or looks
- Kissing sounds, howling and smacking lips
- Telling lies or spreading rumors about a person's sex life
- Massaging neck, shoulders, etc.
- Touching another employee such as their clothing, hair, or body



## II. Sexual Harassment in Online Environments

- Our conduct online and through social media can constitute sexual harassment even when it occurs “off the clock”, “off-site”, or even “out of state”.
- Online sexual harassment includes using e-mail, cell phone texts, internet posting, online comments, blog posts, and social media (such as Facebook, Twitter, LinkedIn, Instagram, YouTube, and Snapchat) to send communications of a sexual nature. Examples include:
  - Flirting and requests or demands to go on a date or have sex
  - Sending inappropriate pictures or videos including sexually graphic material
  - Using sexual language or comments including sexually offensive language
  - Cyber stalking





## What Information Will Be Covered

- I. an **explanation of sexual harassment** consistent with the Illinois Human Rights Act;
- II. **examples of conduct** that may constitute unlawful sexual harassment;
- III. **a summary of Federal and State statutory laws** concerning sexual harassment including remedies available to victims; and
- IV. a **summary of employer responsibilities** in the prevention, investigation, and corrective measures of sexual harassment.



### III. What can I do if I experience, witness, or become aware of unwelcome sexual conduct?

If you experience, witness or become aware of unwelcome sexual conduct, know that:

1. You have the **right to tell the person to stop**. The initiating and participating persons must stop the unwelcome behavior upon request. If they continue the behavior or retaliate against you because you asked them to stop, they can be found to have violated the law by engaging in sexual harassment or retaliation.
2. You have the **right to report the sexual harassment**. Several reporting options are available. The option you choose may depend on the nature and severity of the unwelcome conduct of a sexual nature. Persons who report sexual harassment or participate in investigations are protected from retaliation.



### III. Reporting Sexual Harassment – Several Options

The choice of how to report an allegation of sexual harassment is a personal one, and these options are not mutually exclusive. You may pursue one or more of the following reporting options:

1. **Call the State of Illinois Sexual Harassment & Discrimination Helpline**
2. Report the Incident to Your Employer
3. File a Charge with the Illinois Department of Human Rights (IDHR)
4. File a Charge with the U.S. Equal Employment Opportunity Commission (EEOC)



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## III. Call the State of Illinois Sexual Harassment and Discrimination Helpline

If you or someone you know has experienced or witnessed unwelcome conduct of a sexual nature in the workplace, please call the *State of Illinois Sexual Harassment and Discrimination Helpline* for assistance. Calls are confidential and can be made anonymously.

**Call: 1-877-236-7703**

**Visit [www.Illinois.gov/SexualHarassment](http://www.Illinois.gov/SexualHarassment)**

Helpline representatives can help callers navigate their numerous reporting options and share additional information related to counseling, legal assistance, and frequently asked questions.





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## III. Reporting Sexual Harassment to an Employer

**Report the incident to one or more of the following employer representatives:**

- 1. Your Supervisor** or any member of management you trust. Supervisors and members of management are responsible for knowing the employer's internal complaint investigation and resolution process. Supervisors can help effect immediate positive change.
- 2. Human Resources Officers** can work with management to investigate and resolve sexual harassment complaints. This option may be preferred, if the perpetrator of the sexual harassment is a supervisor or manager.
- 3. Designated Sexual Harassment Reporting Officers** are often established by employers to specifically receive and investigate sexual harassment complaints. Consult your employer's sexual harassment policy for specific reporting contact information.



### III. Reporting Sexual Harassment – Several Options

The choice of how to report an allegation of sexual harassment is a personal one, and these options are not mutually exclusive. You may pursue one or more of the following reporting options:

1. Call the State of Illinois Sexual Harassment & Discrimination Helpline
2. Report the Incident to Your Employer
3. **File a Charge with the Illinois Department of Human Rights (IDHR)**
4. File a Charge with the U.S. Equal Employment Opportunity Commission (EEOC)



## III. Reporting Sexual Harassment to the Illinois Department of Human Rights (IDHR)

The Illinois Department of Human Rights (IDHR) is a state agency responsible for enforcing the Illinois Human Rights Act, the state law which makes it illegal to engage in sexual harassment or retaliation.

- Complainants (victims of sexual harassment) may file a charge at any time within 300 days of the incident(s).
- IDHR has jurisdiction (authority) to investigate employers who have 1 or more employees.
- To start the process, submit a Complainant Information Sheet to IDHR.





## III. Remedies Available Under The Illinois Human Rights Act

- After IDHR completes its investigation, the Complainant (the employee):
  1. May file a lawsuit in civil court, or
  2. May file a complaint with the Illinois Human Rights Commission (HRC) if IDHR found “substantial evidence” of a violation.
- Complainants who prevail in the HRC or Court may receive an **order awarding remedies** allowed by the Illinois Human Rights Act to make the Complainant “whole.”
- **Remedies** may include: back pay, lost benefits, clearing of a personnel file, damages, hiring, promotion, reinstatement, front pay where reinstatement is not possible, and attorney’s fees and costs.



## III. Reporting Sexual Harassment to the IDHR (Contact Information)

To file a charge, call IDHR or visit them online:

1-800-662-3942 | [www.ILLINOIS.GOV/DHR](http://www.ILLINOIS.GOV/DHR)

### IDHR Offices Locations:

- **Chicago.** Office: 312-814-6200 | 866-740-3953 (TTY), 100 W Randolph St, Suite 10-100, Chicago, IL 60601
- **Springfield.** Office: 217-785- 5100 | 866-740-3953 (TTY), 535 W. Jefferson, 1<sup>st</sup> Floor, Intake Unit, Springfield, IL 62702
- **Marion.** Office: 618-993-7463 | 217-740-3953 (TTY), 2309 W Main St, Marion, IL 62959



### III. Reporting Sexual Harassment – Several Options

The choice of how to report an allegation of sexual harassment is a personal one, and these options are not mutually exclusive. You may pursue one or more of the following reporting options:

1. Call the State of Illinois Sexual Harassment & Discrimination Helpline
2. Report the Incident to Your Employer
3. File a Charge with the Illinois Department of Human Rights (IDHR)
4. **File a Charge with the U.S. Equal Employment Opportunity Commission (EEOC)**



### III. Reporting Sexual Harassment to the U.S. EEOC

The United States Equal Employment Opportunity Commission (EEOC) is responsible for enforcing Title VII of the Civil Rights Act of 1964, the federal law that make it illegal to engage in sexual harassment or retaliation.

- Complainants (victims of sexual harassment) may file a charge at any time within 300 days of the incident(s).
- The EEOC has jurisdiction (authority) to investigate employers who have 15 or more employees.
- To start the process, call the EEOC or visit their website.





## III. Remedies Available Under Title VII of the Civil Rights Act of 1964

- **After EEOC completes its investigation:**
  1. The Complainant (the employee) may file a lawsuit in federal court.
  2. The EEOC may help parties reach a settlement through an informal process called “conciliation” if the EEOC finds “reasonable cause” to believe discrimination occurred.
- Complainants who prevail in federal court may receive an **order awarding remedies** allowed by Title VII to make the employee “whole.”
- **Remedies** may include: back pay, lost benefits, clearing of a personnel file, damages, hiring, promotion, reinstatement, front pay where reinstatement is not possible, punitive damages, and attorney’s fees and costs.



## III. Reporting Sexual Harassment to the U.S. EEOC (Contact Information)

To file a charge, call or visit online:

**1-800-669-4000** | [www.EEOC.GOV](http://www.EEOC.GOV)

1-800-669-6820 (TTY for Deaf/Hard of Hearing callers only)

1-844-234-5122 (ASL Video Phone for Deaf/Hard of Hearing callers only)

### U.S. EEOC Offices Serving Illinois

- **Chicago District Office.** JCK Federal Building, 230 S. Dearborn St., Chicago, IL 60604
- **St. Louis District Office.** Robert A. Young Federal Building, 1222 Spruce St., Rm. 8.100, St. Louis, MO 63103



## What Information Will Be Covered

- I. an **explanation of sexual harassment** consistent with the Illinois Human Rights Act;
- II. **examples of conduct** that may constitute unlawful sexual harassment;
- III. a **summary of Federal and State statutory laws** concerning sexual harassment including remedies available to victims; and
- IV. a **summary of employer responsibilities** in the prevention, investigation, and corrective measures of sexual harassment.



## IV. Is my Employer Responsible for Sexual Harassment?

Yes, employers are responsible for sexual harassment in two ways:

- **Manager/Supervisor Harassment.** Employers are *strictly liable* for sexual harassment perpetrated by its members of management *regardless* of whether the employer knew of the harassment.
- **Co-Worker & Nonemployee Harassment.** Employers are *liable* for sexual harassment perpetrated by an employee (co-worker) or nonemployees (vendors) *only if* the employer knew or reasonably should have known of the harassment and failed to take prompt corrective action.





## IV. Employer Responsibilities

We will now discuss employer responsibilities and liabilities concerning incidents of sexual harassment in workplaces including their responsibilities to:

- **Prevent** the incidence of sexual harassment in their workplaces;
- **Investigate** incidents of sexual harassment in their workplaces; and
- **Correct** the incidence of sexual harassment in their workplaces.



## IV. Employer Responsibility - Prevention

1. Develop, implement and regularly communicate the employer's sexual harassment policy.
2. Provide training for managers and employees on sexual harassment prevention.
3. Ensure clear communication on how to report incidents of sexual harassment or conduct of a sexual nature.
4. Managers and supervisors should monitor their work environment to ensure the workplace is free of sexual harassment – supervisors should be aware of the conduct within their supervision.
5. Managers and supervisors must lead by example and model appropriate conduct – refrain from engaging in conduct of a sexual nature.
6. Managers and supervisors should conduct a sexual harassment climate check throughout the year -discuss the topic at a team or staff meeting, in-service day or as part of structured communication such as division/unit newsletters.



## VI. Employer Responsibility - Investigation

1. Immediately respond to a complaint of sexual harassment and initiate an inquiry or investigation.
2. Interview the complainant (victim) and take reasonable action to protect the victim from retaliation or experiencing further sexual harassment during the investigation.
3. Interview all relevant witnesses.
4. Interview the alleged perpetrator of the sexual harassment.
5. Document the investigation results and maintain the file as an employment record.
6. Take corrective action as appropriate.



## IV. Employer Responsibility – Corrective Measures

1. Take appropriate corrective disciplinary action up to and including termination of employment where organizational policy has been violated.
2. In situations where the conduct in question did not rise to the level of sexual harassment or a violation of policy, but is concerning or may be considered grooming behavior, consider counseling, training and closer supervision of the employee.
3. Take reasonable action within the organization to reduce the likelihood of future sexual harassment incidents by updating policies and communicating them to the workforce; providing supplemental or tailored sexual harassment training; or restructuring the working environment or reporting relationships.
4. Follow up with the complainant (victim) at regular intervals to ensure they and the workplace remains free from sexual harassment.



# Sexual Harassment?

## Scenario 1

Employee A has regular contact with Lobbyist as a part of Employee A's job duties. After learning that Employee A had recently divorced, Lobbyist began complimenting Employee A's physical appearance and describing Lobbyist's favorite sexual acts to Employee A. Employee A has started taking time off when Employee A knows that Lobbyist will be present in Employee A's work area, or hiding in the restroom when Lobbyist shows up without warning.

- Has Lobbyist sexually harassed Employee A?

# Sexual Harassment?

## Scenario 1

Has Lobbyist sexually harassed Employee A?

- Yes. This is an example of hostile work environment sexual harassment, because Lobbyist's sexual advances are unwelcome and substantially interfering with Employee A's job performance.
- That Lobbyist is not a co-worker or supervisor of Employee A (or even a State employee) is irrelevant. A hostile work environment can be created by sexually harassing words and/or conduct by third parties (such as lobbyists or vendors) as well as by co-workers or supervisors.



# Sexual Harassment?

## Scenario 2

Employee B's unit receives merit raises scaled to their performance evaluations. Employee B is one of the top performers in that unit. Supervisor tells Employee B that Employee B's performance evaluation is looking good, and that it would look even better if Employee B sleeps with Supervisor. Employee B declines. Soon after, Employee B receives a (deserved) very good performance evaluation and the highest possible raise according to the scale.

- Has Supervisor sexually harassed Employee B?

# Sexual Harassment?

## Scenario 2

Has Supervisor sexually harassed Employee B?

- Yes. Because Supervisor offered a job-related benefit in exchange for sexual favors, this is an example of quid pro quo sexual harassment.
- Even though Supervisor gave a (deserved) very good performance evaluation and the highest possible raise to Employee B (the promised job-related benefit) after Employee B declined to provide sexual favors, the conduct that follows does not undo the fact that Supervisor's offer was sexual harassment the moment that Supervisor made it (although a negative action by Supervisor after Employee B declined would make an even stronger case for sexual harassment).



# V. Reporting

# Reporting Alleged Discrimination, Harassment, or Sexual Harassment

Any employee who is subjected to (or who witnesses or becomes aware of) unlawful discrimination, harassment, or sexual harassment must immediately report the incident.

Ways to report (note that these ways to report are not mutually exclusive, the same incident can be reported to more than one, but different reporting options have different procedures and involve different rights and remedies):

- Your employer
- Office of the Legislative Inspector General
- Department of Human Rights

A separate listing with contacts and confidentiality information is provided with this presentation.

# Reporting Alleged Discrimination, Harassment, or Sexual Harassment

Reporting an incident to your employer.

- The report can be made to your supervisor, your agency's ethics officer, human resources, or your agency's equal employment opportunity officer.
- You can report to any supervisor (not just your own).
- Reporting within your agency can be an effective way to get a quick resolution.
- Ethics officers are good sources of information regarding your reporting options (both within your agency and otherwise).

# Reporting Alleged Discrimination, Harassment, or Sexual Harassment

Reporting an incident to the Office of the Legislative Inspector General.

- The Office has jurisdiction over all agencies and officers of the legislative branch, including current and former members of the General Assembly.
- The role of the Office is to investigate allegations of misconduct (including discrimination, harassment, or sexual harassment) and to report its findings to the relevant ultimate jurisdictional authority and to the Attorney General (who can file a complaint with the Legislative Ethics Commission).
- Investigations by the Office must be commenced within one year from the most recent incident of discrimination, harassment, or sexual harassment.

# Reporting Alleged Discrimination, Harassment, or Sexual Harassment

Reporting an incident to the Department of Human Rights.

- The Department has jurisdiction over violations of the Illinois Human Rights Act, including unlawful discrimination, harassment, and sexual harassment.
- The role of the Department is to investigate formal complaints (charges) of violations of the Act. If the Department finds that there is “substantial evidence” of a violation, that finding can be the basis for either filing a complaint with the Human Rights Commission, or filing a civil lawsuit in circuit court.
- Formal complaints of discrimination, harassment, and sexual harassment must be made to the Department within 300 days after the alleged violation of the Act.

# VI. Retaliation

## Retaliation

Retaliation against individuals who report discrimination, harassment, or sexual harassment, or who participate in investigations or other proceedings, is prohibited under the State Officials and Employees Ethics Act ([5 ILCS 430/15-10](#)), the Whistleblower Act ([740 ILCS 174/15, 20, 20.1, 20.2](#)), and the Illinois Human Rights Act ([775 ILCS 5/6-101](#)).

- “Retaliation” means any negative job-related actions, including, but not limited to, discharge, demotion, denial of promotion or transfer, or any other change in the terms and conditions of employment related to the employee’s reporting of an allegation or participation in an investigation.
- Retaliation is reported in the same manner as reporting unlawful discrimination, harassment, or sexual harassment.



# Retaliation?

## Scenario 1

Employee A reports alleged harassment by Employee B to the agency's Ethics Officer. When the agency's Director learns of the complaint against Employee B, without Employee B's knowledge, Director administratively restructures the unit in which Employee A works, eliminating Employee A's position.

- Has Director retaliated against Employee A?

# Retaliation?

## Scenario 1

Has Director retaliated against Employee A?

- Yes. The key to an employment action being retaliatory (and thereby prohibited) is that it is being done in response to the reporting of, or participation in the investigation of, unlawful discrimination, harassment, or sexual harassment.
- That no complaint has been made against Director, or that Director is acting without the knowledge of Employee B, does not prevent Director's action from being retaliatory.

# Retaliation?

## Scenario 2

Employee C reports alleged unlawful discrimination by Supervisor to the Office of the Legislative Inspector General. Employee D (who witnessed several of the incidents that are the basis for Employee C's report) is interviewed by the Office of the Legislative Inspector General and truthfully reports what Employee D witnessed. After learning that Employee D spoke with the Office of the Legislative Inspector General, Supervisor changes Employee D's position from full-time (with benefits) to hourly (with less-than full-time hours and no benefits).

- Has Supervisor retaliated against Employee D?

# Retaliation?

## Scenario 2

Has Supervisor retaliated against Employee D?

- Yes. Supervisor has taken a retaliatory action against Employee D (by changing the terms of Employee D's employment) for participating in an investigation of alleged unlawful discrimination.
- Note that the prohibition on retaliation includes not only the person who was subject to unlawful discrimination, harassment, or sexual harassment but also the witnesses and others who participate in investigations and proceedings regarding the unlawful discrimination, harassment, or sexual harassment.

# VII. Consequences

# Consequences: Unlawful Discrimination, Harassment, and Sexual Harassment

Sexual harassment is a violation of the [State Officials and Employees Ethics Act](#). Penalties for violations of the Act include:

- A fine of up to \$5,000 per violation;
- Discipline or discharge; and
- Additional court-imposed fines or penalties.

Unlawful discrimination is a violation of the [Illinois Civil Rights Act of 2003](#). Penalties for violations of the Act include:

- Injunctive relief;
- Actual damages; and
- Attorney's fees and expenses.

## Consequences: Unlawful Discrimination, Harassment, and Sexual Harassment (cont.)

Unlawful discrimination, harassment, and sexual harassment are prohibited by the [Illinois Human Rights Act](#). Penalties include:

- Cease and desist order;
- Actual damages;
- Attorney's fees and expenses; and
- Hiring, reinstatement, promotion, back pay, accommodations, etc.



## Consequences: False Reports

- Any person who intentionally makes a false report alleging sexual harassment to the Office of the Legislative Inspector General, the Legislative Ethics Commission, the Illinois State Police, a State's Attorney, the Attorney General, or any other law enforcement official is guilty of a Class A misdemeanor (up to one year in jail, and a fine of up to \$2,500).
- The Legislative Ethics Commission can impose a fine of up to \$5,000 per occurrence for intentionally making a false report alleging unlawful discrimination, harassment, or sexual harassment.