

2024 SEXUAL HARASSMENT PREVENTION TRAINING

Hosted by: Illinois Public Health Nurse Administrators

Information provided by:

Office of Executive Inspector General for the Agencies of the Illinois
Governor, Illinois Department of Human Rights



OBJECTIVES

- The learner will be able to:
 - Describe what sexual harassment is, including its forms and types.
 - Describe what one should do if one experiences or witnesses unwelcome sexual contact.
 - List all options of reporting sexual harassment within one's place of employment and to other outside entities, such as the IL Department of Human Rights.
 - Define Whistleblower protections.



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.



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

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



What Is Sexual Harassment

The Ethics Act defines sexual harassment.

“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.



What Is Sexual Harassment

The two types of sexual harassment are quid pro quo and hostile work environment.

Quid pro quo. *“You do something for me, and I’ll do something for you.”* This means that a manager or supervisor may not tell a subordinate that in order for them 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 subordinate must do something sexual in return.

Hostile work environment This means it has the purpose or effect of substantially interfering with an individual’s work performance or creating an intimidating, hostile or offensive working environment.

For purposes of this definition, the phrase "working environment" is not limited to a physical location to which an employee is assigned to perform his or her duties of employment.



What Is Sexual Harassment

Sexual harassment can include conduct other than sexual advances and requests for sexual favors.

These types of conduct can include unwelcome

1. Physical acts
2. Verbal conduct
3. Visuals

Examples of conduct that may be considered sexual harassment include:

- Actual or attempted rape or sexual assault
- Pressure for sexual favors
- Deliberate touching, leaning over, or cornering
- Sexual looks or gestures
- Letters, telephone calls, personal e-mails, texts, or other materials of a sexual nature
- Pressure for dates
- Sexual teasing, jokes, remarks, or questions
- Referring to an adult as a “girl,” “hunk,” “doll,” “babe,” “honey,” or other similar term
- Whistling at someone

More examples of conduct that may be considered 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, anatomy, or looks
- Kissing sounds, howling and smacking lips
- Telling lies or spreading rumors about personal sex life
- Neck and/or shoulder massage
- Touching an employee's clothing, hair, or body

To understand what sexual harassment is & when it is taking place you should know that:

Gender is irrelevant

Both men and women can be victims of sexual harassment. The harassing behavior may be by someone of the opposite gender or by someone of the same gender. Men can sexually harass other men, and women can sexually harass other women.

Sexual harassment can impact third parties

The victim of sexual harassment does not have to be the person the behavior is directed towards. Anyone affected by the offensive conduct can be a victim, like someone who overhears or witnesses the offensive conduct.



To understand what sexual harassment is & when it is taking place, you should know that:

The behavior is unwelcome.

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.



WATCH THIS YOUTUBE VIDEO

https://www.youtube.com/watch?v=SJfRLv_u6aA

If link does not open, right click on link and select "Open Hyperlink"



To understand what sexual harassment is & when it is taking place, you should know that:

Working environment. An employee's "working environment" is not just the physical location where the employee is assigned. An employee's "working environment" may extend to other office locations and remote, off-site, or mobile work locations.

Sexual harassment is not just limited to co-workers and supervisors. People who are not Department employees, such as patrons, vendors, and delivery people, may come into the work place or interact with employees. Those non-employees can violate sexual harassment laws, rules, and policies, and they can be victims of sexual harassment.



Sexual Harassment doesn't take place only in person

Sexual harassment can involve activities online or through other electronic media, even when “off-site” or “off-the-clock.”

Examples of behaviors that can constitute unwelcome sexual conduct through e-mail, cell phone or text, internet or intranet posting, online comments, blog posts, social media (such as Facebook, Twitter, LinkedIn, Instagram, YouTube, and Snapchat), or other electronic media include:

- Sexually graphic or inappropriate pictures
- Sexually graphic or inappropriate videos
- Sexually offensive language or comments
- Unwanted flirting
- Unwanted requests for dates
- Cyber stalking
- Requests/demands for sex

Hypothetical Question #1

J and D are coworkers at a State agency. They work in the same Bureau.

J has a Facebook account that is not private and posts images of their favorite model, topless. J and D have never had any discussions about the Facebook posts. D, who follows J on Facebook, saw the posts, finds the images offensive, and has reported it to their agency's manager.

Is J sexually harassing D?

- YES
- NO



Hypothetical Answer #1

No. While this behavior would not be appropriate in the workplace, on these facts this behavior outside the office and unrelated to J's State work does not constitute sexual harassment. A hostile work environment occurs when conduct (1) is sexual in nature; (2) is unwelcome; and (3) is intended to or does:

- (A) substantially interfere with work performance or
- (B) create an intimidating, hostile or offensive working environment.

Viewing J's Facebook account is not a term or condition of D's employment.

Viewing J's Facebook account is not used as a basis for an employment decision regarding D. D does not indicate that the conduct had the purpose or effect of substantially interfering with D's work performance or creating an intimidating, hostile, or offensive work environment.



Hypothetical Question #2

D and J work at the same agency. D and J befriend each other and exchange cell phone numbers. J starts to send D sexually explicit pictures (naked) via text. D finds the pictures of J unwelcome and offensive. D tells J to stop, but J continues to send these types of pictures via text. Is this sexual harassment, and if so, what kind is it?

- NO
- YES, IT IS QUID PRO QUO
- YES, IT IS A HOSTILE WORK ENVIRONMENT



Hypothetical Answer #2

Yes, this is sexual harassment that creates a hostile work environment. A hostile work environment occurs when conduct (1) is sexual in nature; (2) is unwelcome; and (3) is intended to or does:

- (A) substantially interfere with work performance or
- (B) create an intimidating, hostile or offensive working environment.

D told J to stop, but J continued to send D offensive material. This displays a pattern of sexual harassment. It does not matter that J sent the texts or D received them when they weren't at work and were "off the clock."

It is not quid pro quo sexual harassment because there is no indication that (1) J is D's supervisor or superior; or (2) J was expecting to engage D in any sort of sexual behavior in exchange for a work benefit or to avoid something punitive at work.

Hypothetical Question #3

J and D are coworkers at a County agency. J has a Facebook account that is not private. J recently went on a vacation to South America and posted pictures of J in swim attire.

D, who follows J on Facebook, made sexually explicit comments about J's body on J's vacation pictures on Facebook. J told D that the comments were unwelcome and to stop. D then made even more offensive posts on J's Facebook page. D also made sexual comments about J's body in the workplace, both to J and about J to other people. J tries to avoid D at work now.

Is D sexually harassing J?

- NO
- YES

Hypothetical Answer #3

Yes, D is sexually harassing J. A hostile work environment occurs when conduct (1) is sexual in nature; (2) is unwelcome; and (3) is intended to or does:

- (A) substantially interfere with work performance or
- (B) create an intimidating, hostile or offensive working environment.

When D first made comments about J's body, those comments may have constituted unwelcome sexual conduct that was not sexual harassment. J took the step to ask D to stop, but J continued anyway. Repeated inappropriate comments inside and outside the workplace that affect J's ability to perform J's work can become sexual harassment.

Hypothetical Question #4

Continuing our Hypothetical #3, W is a coworker of D and J at the same County agency. D makes comments about J's body to W.

Is D sexually harassing W?

- NO
- YES
- IT DEPENDS



Hypothetical Answer #4

It depends. Unwanted sexual comments about someone else can still be sexual harassment. A hostile work environment occurs when conduct (1) is sexual in nature; (2) is unwelcome; and (3) is intended to or does:

- (A) substantially interfere with work performance or
- (B) create an intimidating, hostile or offensive working environment.

If the comments are sexual in nature; are unwelcome; and are intended to or do substantially interfere with W's work performance or create an intimidating, hostile or offensive working environment for W, then D has created a hostile work environment and is sexually harassing W.



Hypothetical Question #5

W is a coworker of D and J at a County agency. D makes sexually explicit comments about J to W. J has asked D to stop talking about J's body to other people, but D has been making the comments for weeks.

Who can report D's comments?

- A) J, because the comments are being made about J.
- B) W, but only if W is personally offended by the comments and the comments are making it hard for W to concentrate and do a good job at work.
- C) W, but only if J says W can report the comments.
- D) J, W, or anyone who overhears the comments or finds out about them.

Hypothetical Answer #5

D. J and W can each report D's sexual comments. Anyone else who overhears the comments or finds out about them can report.

J is the target of D's comments. D's comments are unwelcome and interfering with work, and J can report them as sexual harassment. Remember, a hostile work environment occurs when conduct (1) is sexual in nature; (2) is unwelcome; and (3) is intended to or does:

- substantially interfere with work performance or
- create an intimidating, hostile or offensive working environment.

W should also report the comments. Anyone who witnesses, overhears, or learns of this type of conduct should report it. A person does not need to be the target of the comments to report them. A person does not need to be personally offended by the comments to report them. A person's own work does not need to be impacted to report. A witness does not need to seek permission to report from the person who is the target of the conduct.

Hypothetical Question #6

J and D work for a County agency. J is D's supervisor. D is going on a South American vacation and scheduled a leave request. A few days later, J sent D an email to D's home email address that read, "if you do not have sex with me, I will not only deny your leave request for vacation, I am going to give you a negative performance evaluation."

Did J sexually harass D? If so, what kind is it?

- NO
- YES, IT IS QUID PRO QUO
- YES, IT IS A HOSTILE WORK ENVIRONMENT

Hypothetical Answer #6

Yes, J is engaging in quid pro quo sexual harassment of D. J is demanding that D have sex with J in exchange for a being allowed to go on vacation and in order to avoid a bad outcome at work, a negative performance review.



WHAT TO DO IF YOU EXPERIENCE OR WITNESS UNWELCOME SEXUAL CONDUCT

Know that:

- 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.
- 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.



What to do

There are many different variations of unwelcome sexual conduct.

Some types of conduct are clearly sexual harassment, such as if a supervisor threatens that an employee's job is on the line if they do not engage in sexual conduct.

Other types of conduct may feel like more of a “gray zone,” where you or a coworker feel uncomfortable or do not welcome the behavior, but you are not sure whether it is sexual harassment or what to do about it.

Even if sexual conduct is not sexual harassment, that doesn't mean it belongs in the workplace.

The actions you choose to take may depend on what type of conduct you are experiencing.



What to do

What should you do about unwelcome conduct of a sexual nature, even if you don't think it is "sexual harassment"?

You should tell the person to stop the unwelcome behavior.

- If conduct of a sexual nature is happening around you, but not directed toward you, that can be part of a hostile work environment. You should speak up if it is unwelcome, or if you think the conduct could interfere with another individual's work performance or could create an intimidating, hostile, or offensive working environment. For instance, if a group of colleagues gathers at a nearby co-worker's desk and share sexual stories that others can overhear, you can tell the colleagues that others can hear their conversations and that the sexual commentary should stop.
- If conduct is directed toward someone else, but it makes you or that other person uncomfortable, you can speak up. For instance, if you've noticed that a colleague's "compliments" make others uncomfortable, you can bring it to their attention.

What to do?

If you are a witness to sexual harassment or unwelcome conduct of a sexual nature:

- You should report it
- You can tell the person to stop the unwelcome behavior.

REPORTING AN ALLEGATION OF SEXUAL HARASSMENT

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. Report the Incident to one of the following **Employer Representatives**:
 - Supervisor
 - Human Resource Officer
 - Employer's Designated Sexual Harassment Reporting Officer
2. Call the **State of Illinois Sexual Harassment & Discrimination Helpline**
1-877-236-7703 or
www.Illinois.gov/SexualHarassment



Reporting Options Continued:

3. File a Charge with the **Illinois Department of Human Rights (IDHR)**
1-800-662-3942 or
www.ILLINOIS.GOV/DHR

- Complainants (individuals who are targets 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.

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.



Reporting Options Continued:

4. Report to the **U.S. Equal Employment Opportunity Commission (EEOC)**

1-800-669-4000 or 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)

- Complainants (individuals who are targets of sexual harassment) may file a charge at any time within 300 days of the incident(s).
- EEOC has jurisdiction (authority) to investigate employers who have 15 or more employees.

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.



Whistle Blower Protection (Retaliation)

Retaliation against individuals who report sexual harassment or who participate in investigations and other proceedings is strictly prohibited by the Department, Ethics Act, the Human Rights Act, and the Whistleblower Act.

Retaliatory action includes reprimand, discharge, suspension, demotion, denial of promotion or transfer, or change in the terms or conditions of employment of any County employee that occurs in retaliation for an employee's involvement in these protected activities.

Information on the Ethics Act, Illinois Human Rights Act, Illinois Whistleblower Act
Can be found (5 ILCS 430/) State Officials and Employees Ethics Act; HUMAN RIGHTS (775 ILCS 5/) Illinois Human Rights Act; (740 ILCS 174/) Whistleblower Act



Employer's Responsibility for Sexual Harassment

- **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.
- Employer's have the responsibility 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.

Employer's Responsibility for PREVENTION

- Develop, implement and regularly communicate the employer's sexual harassment policy.
- Provide training for managers and employees on sexual harassment prevention.
- Ensure clear communication on how to report incidents of sexual harassment or conduct of a sexual nature.
- 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.
- Managers and supervisors must lead by example and model appropriate conduct – refrain from engaging in conduct of a sexual nature.
- 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.



Employer's Responsibility to INVESTIGATE

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

Employer's Responsibility to take **CORRECTIVE MEASURES**

- Take appropriate corrective disciplinary action up to and including termination of employment where organizational policy has been violated.
- 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.
- 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.
- Follow up with the complainant (individual who is target of sexual harassment) at regular intervals to ensure he/she and the workplace remains free from sexual harassment.

Thank you for completing the Sexual Harassment Prevention Training

Please complete the Post –Test and Evaluation and submit to your IPHNA host

