

**2019 ANNUAL  
SEXUAL HARASSMENT PREVENTION  
TRAINING FOR AGENCIES OF THE  
ILLINOIS GOVERNOR**

# IN THIS TRAINING YOU WILL LEARN...

- Information about what sexual harassment is;
- Options available to report allegations of sexual harassment;
- Information about retaliation, also known as “whistleblower” protections; and
- Penalties for sexual harassment, false reports, and interfering with, obstructing, or failing to cooperate with a sexual harassment investigation.

# SEXUAL HARASSMENT IS PROHIBITED

- The State Officials and Employees Ethics Act, or “Ethics Act”. The Act states, “[a]ll persons have a right to work in an environment free from sexual harassment. All persons subject to this Act are prohibited from sexually harassing any person, regardless of any employment relationship or lack thereof.” 5 ILCS 430/5-65(a).
- The Illinois Human Rights Act. It is 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).
- Personnel Policies. It is your responsibility to become familiar with and abide by your agency’s policies, including its sexual harassment policy.

# SEXUAL HARASSMENT PREVENTION TRAINING IS REQUIRED

It is the responsibility of each state agency to conduct the sexual harassment prevention training required by the Ethics Act. At least once a year, a report will be made to the Executive Ethics Commission that includes the names of individuals who failed to complete the required training program.

**The Executive Ethics Commission will make the report of individuals who did not complete required training available on its website.**

5 ILCS 430/5-10.5.

# WHAT IS 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:**

1. submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s employment,
2. submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or
3. 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.

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

Ethics Act, 5 ILCS 430/5-65(b).

# WHAT IS SEXUAL HARASSMENT?

**The two types of unlawful 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.*** 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. To constitute hostile work environment sexual harassment, the conduct must be severe or pervasive.

# WHAT IS SEXUAL HARASSMENT?

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

Other conduct of a sexual nature can be part of quid pro quo sexual harassment or can contribute to a hostile work environment that would be sexual harassment.

These other types of conduct can include unwelcome physical acts, verbal conduct, or visuals.

# WHAT IS SEXUAL HARASSMENT?

## **Examples of conduct that may be 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

# WHAT IS SEXUAL HARASSMENT?

## **More examples of conduct that may be 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 a person's 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.** Any person can be a victim of sexual harassment. The harassing behavior may be by someone of a different gender or by someone of the same gender. Men can sexually harass other men, and women can sexually harass other women.

**Sexual harassment and 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 harassment is conduct that is unwelcome, including conduct the victim regards as undesirable or offensive.

# 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 moving work locations.

Sexual harassment is not just limited to co-workers and supervisors. People who are not State 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 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:

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

# REMINDER ABOUT USE OF STATE RESOURCES, LIKE COMPUTERS AND EMAIL

Personal business should not be conducted using State resources. Employees have no expectation of privacy when using State resources, such as State-administered e-mail accounts, State phones, State computers, or State networks.

State employees are provided with State-administered email accounts where only matters related to official State business should be discussed. Matters of a personal nature, or other matters not related to official State business, should generally not be discussed using an official State e-mail account.

State resources, such as State-provided cell phones and computers, should not be used to access non-State e-mail accounts and social media accounts. State resources should not be used to access, view, or download images, video, or other content of a sexual nature.

*State resources include, but are not limited to, State-administered e-mail accounts, State-owned computers, State wireless networks, and State provided phones and cell phones.*

# HYPOTHETICAL #1

## Question

T and S are coworkers. One day T tells S that S is very attractive and they should go on a romantic date after work. S tells T that it is flattering, but not interested in dating someone at work. T makes no other attempts to ask out S. Did T sexually harass S?

- A. Yes.
- B. No.

# HYPOTHETICAL #1

Answer

The correct answer is B, No. T did not sexually harass S.

The State Officials and Employees Ethics Act defines sexual harassment as “any unwelcome sexual advances or requests for sexual favors or any conduct of a sexual nature when: (i) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; (ii) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or (iii) 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.” 5 ILCS 430/5-65.

In this case, T made a sexual advance toward S that was unwelcome, but T did not continue this conduct after learning it was unwelcome. Further, there are no facts to suggest that T's conduct substantially interfered with S's work performance or created a hostile or offensive working environment. Additionally, T's conduct is not quid pro quo sexual harassment because as S's coworker, T cannot impact the terms or conditions of S's employment or make employment decisions affecting S.

# HYPOTHETICAL #2

## Question

M supervises L. During L's annual performance evaluation, M mentions that L could get a higher evaluation score if L agrees to sleep with M. L declined the request and later received a poor performance evaluation. Is this quid pro quo sexual harassment?

- A. Yes
- B. No

# HYPOTHETICAL #2

Answer

The correct answer is A, Yes.

*Quid pro quo* sexual harassment occurs when submission to unwelcome sexual advances, requests for sexual favors, or conduct of a sexual nature is made, either explicitly or implicitly, a term or condition of employment; or when submission to or rejection of unwelcome sexual advances, requests for sexual favors, or conduct of a sexual nature is used as the basis for employment decisions. In this case, M sexually harassed L by offering L a job-related benefit in exchange for a sexual favor. L can report M's conduct to the Office of Executive Inspector General, another supervisor, ethics officer, and/or the Illinois Department of Human Rights.

# HYPOTHETICAL #3

## Question

J and D are coworkers at a State 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?

- A. Yes
- B. No

# HYPOTHETICAL #3

## Answer

The correct answer is A, 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 D continued anyway. Repeated inappropriate comments inside and outside the workplace that affect J's ability to perform J's work can become sexual harassment.

Note that State employees need to be mindful of their social media presence and the proper use of State resources, and that conduct does not need to occur in the workplace to constitute sexual harassment.

# HYPOTHETICAL #4

## Question

J and H share an office workspace. J likes to listen to the radio during work hours, but it bothers H. H has complained to both J and their supervisor about the radio being too loud, and that the noise interferes with H's work productivity. Does this conduct create a hostile work environment?

- A. Yes
- B. No

# HYPOTHETICAL #4

Answer

The correct answer is B, No.

Hostile work environment occurs 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. To be a hostile work environment the sexually inappropriate conduct must be severe or pervasive. To be a hostile work environment, the conduct must be sexual in nature. While the radio playing may be offensive to H, it would not be considered sexual harassment.



# **WHAT TO DO IF YOU EXPERIENCE OR WITNESS UNWELCOME SEXUAL CONDUCT**

# 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. Next are some options for addressing unwelcome sexual conduct and how to report it.

# WHAT TO DO?

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

1. You should report it (more on the options for reporting in a minute).
2. You can tell the person to stop the unwelcome behavior.

# 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.

- 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.

It is a good idea to report the incident or conduct to your supervisor, who should know your agency's complaint process if you wish to file a formal complaint through your agency. Your supervisor also may be positioned to address problematic conduct, even if that conduct is not yet at the level of creating a hostile work environment.

# WHAT TO DO?

**Whether you personally experience or are a witness to sexual harassment, you should report the incident.**

The next section of this training provides you with more information on the different options for reporting allegations of sexual harassment.

# HYPOTHETICAL #5

## Question

Z, a State employee, was recently married and just returned from the honeymoon. When Z returned to work, almost immediately coworkers D and E began making sexual remarks and jokes about the honeymoon and asking personal questions. D and E continued to make jokes on a daily basis and started emailing Z jokes as well. This conduct has been going on for weeks. These jokes really upset Z and Z has been calling in sick a lot and Z's work performance is decreasing. Another coworker, R, who sits near D and E has been overhearing the daily jokes and comments and feels very uncomfortable. R is having trouble meeting deadlines and gets anxious about going to work.

Who is being sexually harassed?

- A. Z.
- B. R.
- C. Z and R.

# HYPOTHETICAL #5

Answer

The correct answer is C, Z and R are being sexually harassed.

An employee can be sexually harassed even if the conduct is not specifically directed at them. Hostile work environment occurs 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. To be a hostile work environment the sexually inappropriate conduct must be severe or pervasive. In this case the offensive comments are pervasive because they have been occurring on a daily basis for weeks. Further, the sexual remarks and jokes are interfering with Z's and R's work performance because Z is calling in sick and having decreased work performance and R is having trouble meeting deadlines and gets anxious about going to work.

# HYPOTHETICAL #6

## Question

Continuing the previous hypothetical, who can report D's and E's conduct?

- A. Z can report it.
- B. R can report it.
- C. Z and R, and anyone who witnesses the inappropriate conduct can report it.

# HYPOTHETICAL #6

## Answer

The correct answer is C, Z and R, and anyone who witnesses the inappropriate conduct can report it.

Just because the sexual comments are directed at Z does not prevent witnesses from reporting the incident. **In fact, State employees have a duty to report inappropriate conduct.** D's and E's conduct can be reported to the Office of Executive Inspector General, a supervisor, ethics officer, and/or the Illinois Department of Human Rights.



# REPORTING AN ALLEGATION OF SEXUAL HARASSMENT

# REPORTING AN ALLEGATION

The choice of how to report an allegation of sexual harassment is a personal one, and these options are not mutually exclusive. A State employee may pursue one or more than one of the reporting options described below.

Please be advised that these various options trigger different procedures and offer different rights and remedies to a State employee who makes an allegation.

# REPORTING AN ALLEGATION

## **Three Main Options for Reporting:**

1. Within your Agency – Supervisor, Ethics Officer, Human Resources, or EEO Officer
2. Illinois Department of Human Rights
3. Office of Executive Inspector General

# REPORTING AN ALLEGATION

You may be asked to provide information about what you have reported or witnessed.

- If a report about sexual harassment is made, or if sexual harassment appears to be happening, someone from your agency, your agency's Ethics Officer or someone they designate, or an investigator from the OEIG may want to interview you. All employees are required to cooperate in such investigations, including by providing complete and truthful information.
- If a person subjected to harassment files a "charge" with the Illinois Department of Human Rights, they will give evidence through IDHR's process. They may list witnesses, who may be asked to give testimony or evidence as part of the IDHR process.

# REPORTING AN ALLEGATION OF SEXUAL HARASSMENT WITHIN YOUR AGENCY

To a Supervisor, Ethics Officer, Human Resources, or EEO Officer

# REPORTING AN ALLEGATION OF SEXUAL HARASSMENT OR OTHER INAPPROPRIATE CONDUCT WITHIN YOUR AGENCY

## Supervisors:

- Are required to take appropriate action upon being notified of sexual harassment, whether or not a formal complaint is made.
- Will know the internal practices of your agency, and will be in a position to help navigate your agency's internal complaint process.
- May seek assistance from or report the allegation to the agency Ethics Officer, EEO Officer, or human resources.

# REPORTING AN ALLEGATION WITHIN YOUR AGENCY

You may choose to report to a supervisor because you are seeking a solution from your agency's management to swiftly resolve your allegation.

For instance, a hostile work environment generally involves a series of events rather than a single event. If you are aware of conduct that, if it continues, may interfere with your or others' work performance or may create an intimidating, hostile, or offensive working environment, a supervisor can be an important resource in addressing it.

You also may choose to discuss your allegation with a supervisor for help determining how to pursue the other reporting options available to you that are described below.

# REPORTING AN ALLEGATION WITHIN YOUR AGENCY

If you are not comfortable going to a supervisor and would like to have your allegation addressed through management action, you can also report an allegation to human resources, an EEO Officer (if applicable), or your Ethics Officer.

# REPORTING AN ALLEGATION OF SEXUAL HARASSMENT OR OTHER INAPPROPRIATE CONDUCT WITHIN YOUR AGENCY

The role of your Ethics Officer includes giving guidance to State employees about the State Officials and Employees Ethics Act.

Your Ethics Officer is available to discuss any concerns about ethics violations you may have, including an allegation of sexual harassment. Ethics Officers can help interpret the Ethics Act for you as it relates to sexual harassment and how to report an allegation of sexual harassment.

Your Ethics Officer will be knowledgeable about the sexual harassment reporting process with the OEIG and IDHR. Your Ethics Officer can assist you in making a report to the OEIG, IDHR, or your supervisor. Your Ethics Officer also has an obligation to promptly notify the OEIG of any allegations of misconduct after receiving such information.

# ILLINOIS DEPARTMENT OF HUMAN RIGHTS

“IDHR” is a State agency that administers the Illinois Human Rights Act.

The Illinois Human Rights Act prohibits sexual harassment in employment, and it is 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 State of Illinois is an employer for purposes of the Illinois Human Rights Act. State employees are subject to the Human Rights Act and may not engage in sexual harassment.

# ILLINOIS DEPARTMENT OF HUMAN RIGHTS

One of IDHR's important roles is to investigate "charges" – or formal complaints – of discrimination, including allegations of sexual harassment in employment. The person who files the charge (or makes the complaint) is called the "complainant."

After the investigation, IDHR prepares a written report with a recommendation on whether or not there is "substantial evidence" of a violation of the Illinois Human Rights Act.

# ILLINOIS DEPARTMENT OF HUMAN RIGHTS

A finding of “**substantial evidence**” by IDHR means that there is enough evidence to take the case before an administrative law judge at the Illinois Human Rights Commission (“HRC”), a separate State agency that conducts public hearings. During this process, IDHR facilitates opportunities to resolve the allegation through settlement, such as in mediation.

After IDHR issues its finding:

- a complainant may file a lawsuit in civil court, or
- if IDHR found “substantial evidence,” the complainant may file a complaint with the HRC.

If a complainant files a lawsuit or complaint, either the court or the HRC will hear testimony, receive evidence, and determine whether unlawful discrimination or harassment occurred.

In August 2018, the Human Rights Act was amended to allow individuals to opt-out of IDHR’s investigation and go directly to Circuit Court within 60 days of receiving a notice from IDHR. For more information regarding this process, please see 775 ILCS 5/7A-102(c)(1).

# ILLINOIS DEPARTMENT OF HUMAN RIGHTS

If a complainant prevails in court or at the HRC, the judge or the HRC can order remedies allowed by the Illinois Human Rights Act to make the complainant “whole.” These 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.

This process through IDHR and the HRC, or through IDHR and a court, may take several years. It is a public process – an employee who chooses to pursue this option may not do so anonymously. It requires involvement by the person who filed the complaint. Some individuals who pursue their complaints through the IDHR process and the HRC or a court choose to seek help from an attorney, while others proceed without an attorney.

# ILLINOIS DEPARTMENT OF HUMAN RIGHTS: HOW TO FILE A CHARGE

## TIMING MATTERS!

A charge must be filed with IDHR within **300 days** of the violation.\*

\*Public Act 100-0588 extended the time to file a charge to 300 days of the alleged incident. However, if the incident occurred before June 8, 2018, a 180-day timeframe applies.

The process begins by filing a “charge” (or a report of an allegation) to IDHR. The first step is to submit information in person, by mail, or by fax, using a Complainant Information Sheet that is available on the IDHR website at [www.illinois.gov/dhr/FilingCharge/Pages/Intake.aspx](http://www.illinois.gov/dhr/FilingCharge/Pages/Intake.aspx)

The Complainant Information Sheet requires detailed information, including contact information, employer information, most recent date of the alleged sexual harassment, witness information, and copies of relevant documents.

# ILLINOIS DEPARTMENT OF HUMAN RIGHTS: WAYS TO REACH IDHR AND LEARN MORE ABOUT THE IDHR PROCESS

The IDHR website is [www.illinois.gov/dhr](http://www.illinois.gov/dhr). It provides additional information about sexual harassment, filing a charge, the process for investigating and resolving an allegation, and other frequently asked questions.

The phone number for IDHR is 1-800-662-3942.

# ILLINOIS DEPARTMENT OF HUMAN RIGHTS: WAYS TO REACH IDHR AND LEARN MORE ABOUT THE IDHR PROCESS

## **IDHR has offices at:**

### ➤ **Chicago**

James R. Thompson Center, 100 W. Randolph St. Ste. 10-100,  
Chicago, IL 60601.

312-814-6200. 866-740-3953 (TTY)

### ➤ **Springfield**

535 West Jefferson, 1st Floor, Springfield, IL 62702

217-785-5100, 866-740-3953 (TTY)

### ➤ **Marion**

2309 W. Main St., Marion, IL 62959

618-993-7463, 217-740-3953 (TTY)

Hours for these offices, including hours when the offices conduct intake interviews for new reports, can be found on IDHR's website.

# DEPARTMENT OF HUMAN RIGHTS HELPLINE

In February 2018, IDHR began operating a **helpline for reporting sexual harassment and discrimination**.

Through the helpline:

- IDHR offers help with finding resources, including counseling services.
- IDHR assists with filing sexual harassment or discrimination complaints with IDHR or other agencies.
- People may use the helpline as a starting point to report sexual harassment or discrimination in either State employment and private sector employment. IDHR's helpline can assist with making a complaint through the IDHR process or to another agency.
- For people who are subject to the Ethics Act, which includes State employees required to take this training, IDHR will report the allegations to the OEIG or Legislative Inspector General for further investigation if the person making the report gives permission for IDHR to do so.

# DEPARTMENT OF HUMAN RIGHTS HELPLINE

You can call the helpline at: 1-877-236-7703

More information about the helpline is available at:

<https://www2.illinois.gov/sites/sexualharassment/Pages/default.aspx>

All communication submitted through the helpline, including by internet, will be confidential and exempt from disclosure under the Freedom of Information Act unless the individual elects to make a complaint that is not confidential, such as by filing a complaint (or charge) with IDHR and beginning the formal IDHR process.

# OFFICE OF EXECUTIVE INSPECTOR GENERAL

The OEIG is an independent executive branch State agency that works to ensure accountability in State government. The OEIG's jurisdiction includes executive branch agencies, officers, and employees (other than those under the Attorney General, Secretary of State, Comptroller, or Treasurer), the four regional transit boards, the State public universities, approximately 300 boards and commissions, and vendors doing business with those agencies and entities.

**The OEIG does not represent any party or agency in an investigation, and the OEIG does not investigate on behalf of any individual or agency.**

# OFFICE OF EXECUTIVE INSPECTOR GENERAL

A main role of the OEIG is to investigate allegations of misconduct and to make reports of its findings to the affected agencies and officials.

The OEIG may investigate alleged violations of laws, rules, or regulations committed by any employee of an entity under its jurisdiction, or by anyone doing business with those entities. The OEIG investigates:

- Allegations of fraud, waste, abuse of authority, or corruption
- Violations of the State Officials and Employees Ethics Act, including the prohibition on sexual harassment
- Violations of other laws or rules

# OFFICE OF EXECUTIVE INSPECTOR GENERAL — FILING A COMPLAINT

**An allegation or complaint may be filed with the OEIG by:**

1. Completing a form online at <http://www.inspectorgeneral.illinois.gov>;
2. Calling the OEIG's toll-free hotline (866) 814-1113;
3. Sending a completed complaint form to Office of Executive Inspector General for the Agencies of the Illinois Governor, Attention Complaint Division, 69 West Washington Street, Suite 3400, Chicago, Illinois 60602;
4. Faxing a completed complaint form to (312) 814-5479;
5. Contacting the OEIG by telecommunications device for the disabled (TTY) at (888) 261-2734; or
6. Scheduling an appointment with the OEIG at its Springfield or Chicago locations.

# OFFICE OF EXECUTIVE INSPECTOR GENERAL

The OEIG may accept complaints that are filed anonymously. It is important to provide enough detail about the allegation for an investigation to be started.

If filing a complaint with the OEIG:

- The complaint must be filed within a year of the events at issue.
- The complaint must relate to conduct of (1) an employee or officer of an executive branch agency or other entity under the OEIG's jurisdiction, such as the State universities or regional transit agencies, or (2) a person or entity (like a vendor) that does business with an entity under the jurisdiction of the OEIG.

**Anyone filing a complaint should have a reasonable belief that the allegation is true.**

# OFFICE OF EXECUTIVE INSPECTOR GENERAL

Typically, if you file a complaint with the OEIG, you will receive a letter that identifies a file ID number for your complaint.

The complaint is then reviewed by the OEIG.

Generally, you will only be contacted again if the OEIG needs additional information or clarification.

# OEIG'S REVIEW OF COMPLAINTS

The OEIG investigates some, but not all, complaints it receives.

- The OEIG may refer matters to another agency when it appears that the allegations may be more appropriately addressed by that agency. In some instances, when the OEIG refers the matter to another agency, the OEIG requests that the agency review the allegations and respond to the OEIG about these allegations. The OEIG then reviews these agency responses to determine whether the agency adequately addressed the allegations or whether the OEIG should subsequently open an investigation.
- The OEIG has discretion to decline to investigate.
- Certain complaints received by the OEIG may require the involvement of other investigative or prosecutorial entities. Criminal matters, for example, may require the participation of, or referral to, other prosecuting or law enforcement authorities. The OEIG may refer a criminal matter to the Illinois State Police or other appropriate law enforcement authority.

# OEIG FOUNDED SUMMARY REPORTS

If the OEIG conducts an investigation and determines that there was a reasonable basis to believe that wrongdoing occurred, the OEIG issues a “founded summary report.” The report may include recommendations, such as for discipline of the person responsible for the misconduct or for other agency action to address the problem.

The OEIG’s founded summary report is sent to the appropriate ultimate jurisdictional authority and to the head of each State agency affected by or involved in the investigation. The ultimate jurisdictional authority or agency head has 20 days to respond in writing to the OEIG with a description of any corrective or disciplinary action to be taken.

# OEIG FOUNDED SUMMARY REPORTS — EEC ACTION BASED ON REPORTS

If the OEIG has reasonable cause to believe that a violation of the Ethics Act has occurred—such as sexual harassment, prohibited political activity, retaliation, a gift ban violation, revolving door violation, or failure to cooperate with an OEIG investigation—the OEIG also may ask the Illinois Attorney General to file a complaint with the Executive Ethics Commission (“EEC”).

If the Illinois Attorney General files a complaint and the EEC decides that a violation of the Ethics Act did occur, the EEC may impose an administrative fine or take other action to stop the unlawful activity.

# OEIG FOUNDED SUMMARY REPORTS — REPORTS MADE PUBLIC

The EEC is required to publish OEIG founded summary reports and responses if the investigation resulted in a suspension of at least three days or termination.

The EEC may publish any other OEIG founded summary reports that do not result in suspension of three days or more or termination of employment.

Before publication, the EEC “shall redact information in the summary report that may reveal the identity of witnesses, complainants, or informants or if the Commission determines it is appropriate to protect the identity of a person.” 5 ILCS 430/20-52.

# HYPOTHETICAL #7

## Question

J and D work for a State 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?

- A. No
- B. Yes, it is Quid Pro Quo
- C. Yes, it is Hostile Work Environment

# HYPOTHETICAL #7

Answer

The correct answer is B, Yes.

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

# HYPOTHETICAL #8

## Question

Continuing the previous hypothetical, D properly reported the email to the Ethics Officer and forwarded J's email to the agency's Ethics Officer. The Ethics Officer meets with D and explains additional options for reporting.

D would like to keep the complaint confidential. D wants an investigation conducted by someone outside the agency and hopes that J is disciplined if the investigation finds sexual harassment occurred. D also is worried that other employees' requests for leave could be subject to J's demands. D wants to be sure no one else is threatened by J when they ask for time off during the upcoming holiday weeks.

Where else could D report to meet these goals?

- A. J's Supervisor
- B. Office of Executive Inspector General (OEIG)
- C. Illinois Department of Human Rights (IDHR)
- D. A and B

# HYPOTHETICAL #8

## Answer

The correct answer is D, both J's supervisor and the OEIG.

The OEIG operates outside the agency and conducts investigations in a confidential manner, to the extent possible under law. If the OEIG determines that the allegations are founded, it will issue a founded report that recommends discipline or other agency action. However, this investigative process will take additional time, and may not immediately address the workplace conditions.

J's supervisor does not need to wait for the OEIG investigation to be complete to work with agency management to ensure a sexual harassment-free workplace. J's supervisor should respect D's request for confidentiality. J's supervisor should disclose no more than is needed to investigate and to address the problem, so that others are not threatened by J when they ask for time off.

Complaints filed with IDHR are not confidential.



# **WHISTLEBLOWER PROTECTION AND COOPERATION WITH INVESTIGATIONS**

# WHISTLEBLOWER PROTECTION

Retaliation against individuals who report sexual harassment or who participate in investigations and other proceedings is strictly prohibited by the 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 State employee that occurs in retaliation for an employee's involvement in these protected activities.

# WHISTLEBLOWER PROTECTION

Under the **Ethics Act**, an officer, member, State employee, and/or State agency cannot take retaliatory action against a State employee who (1) reports allegations of sexual harassment, (2) provides information or testifies in connection with an investigation, hearing, or other inquiry, or (3) participates in a proceeding to enforce the Ethics Act.

The OEIG can investigate allegations of retaliation and recommend discipline, up to and including termination. An employee can also bring a lawsuit under the Ethics Act. Anyone who intentionally violates this prohibition on retaliation is guilty of a misdemeanor and is subject to discipline or discharge.

# WHISTLEBLOWER PROTECTION

Under the **Illinois Human Rights Act**, it is a civil rights violation to retaliate against someone who “has opposed that which he or she reasonably and in good faith believes to be unlawful . . . sexual harassment in employment . . . .” 775 ILCS 5/6-101(A).

# WHISTLEBLOWER PROTECTION

Under the **Illinois Whistleblower Act**, “[a]n employer may not retaliate against an employee for disclosing information to a government or law enforcement agency, where the employee has reasonable cause to believe that the information discloses a violation of a State or federal law, rule, or regulation.” 740 ILCS 174/15(b).

# WHISTLEBLOWER PROTECTION

Remedies available in a civil lawsuit if retaliation occurs may include:

- reinstatement of employment;
- two times back pay;
- interest on back pay;
- reinstatement of fringe benefits and seniority rights; and
- payment of reasonable costs and attorney's fees.

# COOPERATION WITH INVESTIGATIONS

**All employees are expected to cooperate with investigations into sexual harassment.**

Under the Ethics Act, it is the duty of every State employee and officer under the jurisdiction of the OEIG to cooperate with the OEIG in any investigation, including investigations into sexual harassment.

Failure to cooperate includes, but is not limited to, intentional omissions and knowing false statements.



# PENALTIES

# PENALTIES

State employees who engage in sexual harassment, who make false reports of sexual harassment, or who obstruct, interfere with, or fail to cooperate with investigations into alleged sexual harassment are subject to significant penalties, including fines, discipline up to and including discharge, and even criminal misdemeanor charges.

# PENALTIES FOR SEXUAL HARASSMENT

Sexual harassment in violation of the Ethics Act. Any person who violates the prohibition on sexual harassment that is found in the Ethics Act:

- May be fined up to \$5,000 per offense;
- Is subject to discipline or discharge; and
- Also may have fines or penalties imposed by a State or federal agency or court (such as if a charge was filed with IDHR and the court or Human Rights Commission determined that unlawful harassment occurred).

# PENALTIES FOR FALSE REPORTS

**False reports are prohibited.**

The EEC may levy a fine of up to \$5,000 against any person who intentionally makes a false, frivolous, or bad faith allegation.

Any person who intentionally makes a false report alleging sexual harassment to the OEIG, EEC, or to certain law enforcement agencies or officials is guilty of a misdemeanor.

# PENALTIES FOR OBSTRUCTING, INTERFERING WITH, OR FAILING TO COOPERATE WITH AN INVESTIGATION

The EEC may levy a fine of up to \$5,000 against any person who intentionally obstructs or interferes with an investigation conducted under the Ethics Act by the OEIG.

Failure to cooperate with an investigation conducted under the Ethics Act by the OEIG, including intentional omissions and knowing false statements, is grounds for disciplinary action, including dismissal.

# HYPOTHETICAL #9

## Question

K is a vendor for the State. After making her deliveries, K always flirts with M, a State employee, by complimenting M's body and asking M to go on dates. M always declines the offer and tells K that M is in a relationship and not interested in K's advances. K's conduct has been occurring for several months. Whenever K comes to make deliveries M tries to go to coworkers' office, which has resulted in M missing meetings and calls. Last week M was written-up for missing an important meeting. Is K sexually harassing M?

- A. Yes, because K's sexual advances are unwelcome and pervasive and substantially interfering with M's work performance.
- B. No, because a vendor cannot harass a State employee.
- C. No, because M has told K that M is in a relationship.

# HYPOTHETICAL #9

Answer

The correct answer is A, Yes.

Hostile work environment sexual harassment occurs 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. To be a hostile work environment the sexually inappropriate conduct must be severe or pervasive. K is sexually harassing M because K's sexual advances are unwelcome and pervasive and substantially interfering with M's work performance. B is incorrect because State vendors can engage in sexual harassment. C is incorrect because K continued to make sexual advances even after M said those advances were unwelcome.

# COMPLETION & CERTIFICATION

**Thank you for completing your annual sexual harassment prevention training.**

The next slide is a certification for you to print and sign. Please provide the acknowledgement form to your ethics officer.

## **ACKNOWLEDGEMENT OF PARTICIPATION IN: 2019 ANNUAL SEXUAL HARASSMENT PREVENTION TRAINING**

I certify that I have carefully read and reviewed the content of, and completed, the 2019 Sexual Harassment Prevention Training pursuant to 5 ILCS 430/1 *et seq.* Furthermore, I certify that I understand my failure to comply with the laws, rules, policies, and procedures referred to within this training course may result in disciplinary action up to and including termination of State employment, administrative fines, and possible criminal prosecution, depending on the nature of the violation.

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Signature

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Printed Name  
(first, middle initial, last)

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Month and Day of Birth  
(for example, July 15)

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Date

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State Agency Name / Work Location