



# 2020 Harassment and Discrimination Prevention Training for CTA Employees

**Note:** This training course has been developed in accordance with the requirements of the State Officials and Employees Ethics Act (5 ILCS 430/5-10). It has been developed for this purpose under the direction of the Board of Directors of the Chicago Transit Authority. Not for use by other than employees, appointees, or officials of the Chicago Transit Authority without the express consent of the Office of Executive Inspector General for the Agencies of the Illinois Governor.

If you need reasonable assistance to read, review and sign this ethics training pamphlet, please contact the Ethics Officer at (312) 681-2924.

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## Introduction/General Principles

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Beginning in 2020, all state agencies, including the Regional Transit Boards, must establish a harassment and discrimination prevention training program. The training must include at a minimum: (i) a prohibition on sexual harassment, unlawful discrimination, and harassment, including examples of each; (ii) details on how an individual can report an allegation of sexual harassment, unlawful discrimination, and harassment, including options for making a confidential report to a supervisor, ethics officer, Inspector General, or the Department of Human Rights; (iii) the definition and description of retaliation for reporting sexual harassment, unlawful discrimination, or harassment allegations utilizing examples, including the availability of whistleblower protections under the State Officials and Employees Ethics Act (“the Ethics Act”), the Whistleblower Act, and the Illinois Human Rights Act; and (iv) the consequences of a violation of the prohibition on sexual harassment, unlawful discrimination, and harassment and the consequences for knowingly making a false report. 5 ILCS 430/5-10.5(a-5). Proof of completion must be submitted to the applicable ethics officer.

The CTA maintains a working environment for all CTA employees to be free from sexual harassment. The CTA has *zero* tolerance for sexual harassment. Please see AP 1605 “Sexual Harassment and Related Retaliation Complaints.” Employees who believe they have been subjected to or witness sexual harassment should report it immediately to their supervisor, the CTA’s EEO Officer, the CTA’s Ethics Officer, or to Human Resources, or through the alternative reporting channels set forth below, such as the Office of Executive Inspector General (OEIG) or Illinois Department of Human Rights (IDHR).

Similarly, the CTA has zero tolerance and expressly prohibits unlawful discrimination and harassment. See AP 1601 “Discrimination, Harassment, Bullying, and Retaliation Complaints.” Discrimination occurs when an employer treats members of certain classes unfairly based on factors such as race, color, religion, sex, age, national origin, pregnancy, marital status, disability, military status, sexual orientation, order of protection status, and any other protected characteristic defined under applicable law. Harassment is unwelcome conduct based on factors such as race, color, religion, sex, age, national origin, pregnancy, marital status, disability, military status, sexual orientation, order of protection status, and any other protected characteristic defined under applicable law.

Employees should not allow an inappropriate situation to continue by not reporting it, regardless of who is creating that situation. No employee at the CTA is exempt from reporting misconduct in violation of this policy. For example, even if you are not directly involved, but witness inappropriate conduct you should report it.

The CTA acknowledges that coming forward regarding sexual harassment, discrimination, or harassment allegations can seem overwhelming. That is why the CTA has a process in place to handle these allegations. In response to every complaint, CTA investigates promptly and thoroughly. The CTA assures its employees that there is no retaliation against any employee filing a harassment complaint, or against any employee who cooperates with a CTA

investigation, and there are policies and laws that prohibit retaliation. If allegations of improper harassment are substantiated, the CTA commits to taking the appropriate action, including disciplinary measures up to and including termination.

## **What is Sexual Harassment?**

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Sexual harassment is defined as *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 where an employee is assigned to perform his or her duties and does not require an employment relationship. See 5 ILCS 430/5-65(b).*

**CTA May be Responsible for Actions of Nonmanagerial or Nonsupervisory Employees.** The Illinois Human Rights Act states that an agency may be liable for the harassing actions of nonmanagerial or nonsupervisory employees directed toward other CTA employees or nonemployees of CTA if the agency was aware of the employee's behavior and failed to take reasonable corrective actions. 775 ILCS 5/2-102(A), (A-10), (D), and (D-5). This means that if a nonmanagerial or nonsupervisory CTA employee sexually harasses or harasses a CTA employee, the employee of a CTA vendor, or a contract worker, CTA may be responsible if it becomes aware of the harassing conduct and fails to take reasonable corrective measures.

## **Types of Sexual Harassment**

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Types of sexual harassment include *quid pro quo* (Latin for "this for that" or "something for something") and hostile work environment. Sexual advances and requests for sexual favors are not the only types of conduct that can be sexual harassment. Other conduct of a sexual nature can be part of a *quid pro quo* sexual harassment or contribute to a hostile work environment, including unwelcome physical acts, verbal conduct, or visuals, such as:

- 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 if they include sexual content

- Pressure for dates
- Sexual teasing, jokes, remarks, or questions
- Referring to an adult as a “girl,” “hunk,” “doll,” or other diminutive term
- Whistling at someone
- Sexual comments, sexual innuendos, or sexual stories
- Turning work discussions to sexual topics
- Asking about sexual fantasies, preferences, or history
- 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
- Hanging around a person uninvited
- Hugging or kissing
- Patting, stroking, or pinching
- Touching or rubbing oneself sexually in the presence of another person
- Standing close to or brushing up against a person
- Looking a person up and down
- Sexually suggestive posters, cartoons, or magazines displayed in the workplace or shown to someone
- Playing sexually suggestive or graphic videos or music
- Making sexual gestures with hands or through body movements

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 email, 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

### **Quid Pro Quo Sexual Harassment**

*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.

### Review Question # 1

Robert, a CTA manager, interviews Louise for an entry level position in CTA's customer service department. He tells her that he cannot hire her unless she strips down to her underwear and allows him to take photos of her. Louise agreed in exchange for the job offer. Is this sexual harassment?

- A. No, because Louise agreed to disrobe.
- B. Yes, this is an example of *quid pro quo* sexual harassment.
- C. No, because Robert did not physically touch Louise.

Select the best answer(s) then compare your response to the explanation below.<sup>1</sup>

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<sup>1</sup> The best response to Review Question # 1 is B. *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. Here, Robert would hire Louise only if Louise partially disrobed and allowed Robert to take pictures of her. Answer A is incorrect because Louise's response to Robert does not change the fact that he would not hire her unless she did something sexual in nature for him. Answer C is incorrect because sexual harassment includes any conduct of a sexual nature, including conduct that does not involve physical touching (such as ordering someone to disrobe, whistling, or comments of a sexual nature).

### Review Question # 2

Harvey is Ashley's supervisor. Before he was Ashley's supervisor, he worked with Ashley in the same department. At that time, he asked her on dates and she informed him that she was not interested.

Ashley requests vacation time one month before a proposed family vacation. Harvey refuses the request unless Ashley goes out on a date with him after work. Ashley refuses, but later Harvey grudgingly approves the vacation request. Is this sexual harassment?

- A. No, because Harvey did not ask for anything sexual in nature.
- B. Yes, this is an example of *quid pro quo* sexual harassment.
- C. No, because Harvey approved the vacation request.

Select the best answer(s) then compare your response to the explanation below.<sup>2</sup>

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<sup>2</sup> The best response to Review Question # 2 is B. Here, Harvey is threatening to withhold a benefit (approval of leave time) in exchange for a date. This is *quid pro quo* sexual harassment. Answer A is incorrect because sexual harassment can take on many non-physical forms, including pressure for dates. Answer C is incorrect. Just because Harvey later approved the vacation request does not mean the sexual harassment did not occur.

## Hostile Work Environment

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.

There are many types of behaviors that can create a hostile work environment. Examples include using derogatory terms or jokes, insults, taunting, and intimidating actions. The CTA prohibits these types of behaviors by any person while engaged in CTA business.

While a person engaging in behavior that creates a hostile work environment often has some form of power or authority over the person being harassed, that is not always the case. The harasser can be a peer of the person being harassed. The harasser can even be a person who is not a CTA employee, such as a person delivering supplies to the CTA or refilling vending machines, or even a CTA passenger. Regardless of the source, the CTA does not tolerate harassment.

To determine whether a hostile work environment exists, the CTA examines the context, nature, scope, frequency, duration, and location of incidents, as well as the identity, number of persons, and relationships of the persons involved. The CTA also determines whether the person at whom the conduct was directed found it harassing and whether a "reasonable person" would find the conduct harassing. Factors such as these assist in determining whether the conduct at issue is harassing and whether it is sufficiently severe or pervasive to have created a hostile work environment.

Entities other than the CTA can also receive allegations. **Just because conduct does not rise to the level of a legal definition of "hostile work environment" does not mean it is acceptable behavior.** In some cases, a single incident may be so severe as to create a hostile work environment. Such incidents may include injury to persons or property or conduct threatening injury to persons or property. In other instances, the behavior at issue is harassing, but not sufficiently severe or pervasive as to constitute a hostile work environment under the law. However, such behavior may violate CTA policy and, in those cases, the CTA acts to stop the offending behavior to promote a respectful environment. When the CTA determines that a hostile environment exists, it takes steps reasonably calculated to stop the harassment and ensure it does not happen again. **If you believe the conduct is inappropriate, make a complaint so that the conduct can be addressed.**

### Review Question # 3

Carl is a CTA employee and former professional baseball player. When he played baseball, it was typical to pat teammates on the behind after every game. At the end of every workday at the CTA, Carl pats Lois, his coworker, on the behind as they leave the work site. Lois does not welcome this conduct and it is very upset by Carl's frequent touches. Did this create a hostile work environment?

- A. No, Carl is not Lois' supervisor.
- B. No, because Carl's touching is not meant to be sexual in nature.
- C. Yes, because his contact was unwelcome, sexual in nature, and pervasive.

Select the best answer(s) then compare your response to the explanation below.<sup>3</sup>

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<sup>3</sup> Answer C is the best response because this is unwelcome conduct of a sexual nature that has the effect of creating an offensive working environment. Even though Carl believes that this is regular behavior based on his background as a baseball player, a reasonable person under similar situations would find his behavior to be inappropriate and harassing. Answer A is incorrect because coworkers can create a hostile work environment; a coworker can engage in sexual harassment. Answer B is incorrect because even though Carl did not intend for the contact to be sexual in nature, in the workplace unwelcome touching of someone's behind on a daily basis is sexual harassment.

#### Review Question # 4

Anthony and Kris are CTA coworkers who work 8:30 a.m. to 5:00 p.m., Monday through Friday. One day, they go out for drinks after work with several CTA coworkers. At one point, Anthony buys Kris a shot of alcohol, attempts to kiss Kris several times and asks her to come home with him. She tells him that she's not interested. After Kris arrives home, she receives a text asking her to come over for a nightcap. She refuses again. Over the course of the next week, Anthony sends Kris nude selfies from his bathroom every night at around 11:00 p.m. After she rejects his advances, Anthony spreads rumors that Kris is dating their supervisor. Kris has difficulty working in the office environment with Anthony because they share a workspace and have to interact regularly at the office. Does Anthony's behavior create a hostile work environment?

- A. Yes, Anthony's aggressive demeanor at the bar, followed by the repeated texts and spreading rumors about Kris' dating life created a hostile work environment.
- B. Yes, because coworkers should not socialize outside of work.
- C. No, because Anthony's behavior did not happen at work.

Select the best answer(s) then compare your response to the explanation below.<sup>4</sup>

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<sup>4</sup> The best response to Review Question # 4 is A. A 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. Here, Anthony's actions were unwanted, sexual in nature and created an intimidating work environment. Answer B is inaccurate as there is no law that precludes coworkers from socializing outside of work. Answer C is incorrect because sexual harassment can occur outside of regular work hours.

### Review Question # 5

Ed, a nonsupervisory CTA employee, is attracted to Karen, the employee of a CTA vendor. He constantly asks her to go on dates with him, and takes any opportunity to touch her on the arm and back. Karen has told Ed numerous times that she is not interested in dating him, and has complained to Ed's supervisor at the CTA. Karen has grown increasingly distressed, and has lost wages by turning down assignments that would put her at the same work location as Ed. Despite complaining, no action has been taken by the CTA to correct Ed's behavior, and Karen is now contemplating legal action. Can the CTA be held legally responsible for Ed's actions?

- A. No, because Ed is not a supervisor and the CTA is not responsible for Ed's individual actions.
- B. No, because Karen is not a CTA employee.
- C. Yes, because Karen is the employee of a CTA vendor and this relationship is covered under the Illinois Human Rights Act.

Select the best answer(s) then compare your response to the explanation below.<sup>5</sup>

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<sup>5</sup> The best response to Review Question # 5 is C. The Illinois Human Rights Act says that an employer is responsible for the harassment of vendors and contractors by the employer's nonsupervisory employees if the employer is aware of the conduct and fails to take corrective measures. Here, Ed attempts to pressure Karen into dating him, which is a type of sexual harassment that contributes to a hostile work environment. Karen complained to Ed's supervisor at the CTA, but the CTA did nothing to stop the harassment. Answer A is incorrect because the CTA knew of Ed's behavior and did nothing to correct it. Answer B is incorrect because the Illinois Human Rights Act protects employees of vendors and contractors from the harassment by employees of the hiring company.

## What is Discrimination and Harassment?

Under the Illinois Human Rights Act, "unlawful discrimination" means 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 the military. 775 ILCS 5-1-03(Q). *Discrimination* occurs when an employer takes actions regarding hiring or employment because of a candidate's or employee's membership(s) in those groups or their protected categories.

Each of the categories listed above has a legal meaning. Below are the legal definitions as they directly appear in the Human Rights Act for your reference.<sup>6</sup>

<b>Marital Status.</b> The legal status of being married, single, separated, divorced, or widowed. <i>Id.</i> at §1-103(J).	<b>Sex.</b> The status of being male or female. <i>Id.</i> at §1-103(O).	<b>National Origin.</b> The place in which a person or one of his or her ancestors was born. <i>Id.</i> at §1-103(K).
<b>Order of Protection Status.</b> A person's status as being a person protected under an order of protection issued pursuant to certain statutes, or an order of protection issued by a court of another state. <i>Id.</i> at §1-103(K-5).	<b>Age.</b> The chronological age of a person who is at least 40 years old. In the case of training and apprenticeship programs, age means a person who is 18 but not yet 40 years old. <i>Id.</i> at §1-103(A).	<b>Pregnancy.</b> Pregnancy, childbirth, or medical or common conditions related to pregnancy or childbirth. <i>Id.</i> at §1-103(L-5).
<b>Religion.</b> All aspects of religious observance and practice, as well as belief, unless an employer demonstrates that he or she is 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. <i>Id.</i> at §2-101(F).	<b>Unfavorable Military Discharge.</b> Discharges from the Armed Forces of the U.S, their Reserve components, or any National Guard or Naval Militia which are classified as RE-3 or the equivalent, but does not include those characterized as RE-4 or "Dishonorable." <i>Id.</i> at §1-103(P).	<b>Sexual Orientation.</b> The actual or perceived heterosexuality, homosexuality, bisexuality, or gender-related identity, whether or not traditionally associated with the person's designated sex at birth. <i>Id.</i> at §1-103(O-1).
<b>Military Status.</b> A person's status on active duty in or status as a veteran of the armed forces of the U.S., status as a current member or veteran of any reserve component of the armed forces of the U.S., or status as a current member or veteran of the Illinois Army National Guard or Illinois Air National Guard. <i>Id.</i> at §1-103(J-1).	<b>Disability.</b> A determinable 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 characteristic, or the perception of such characteristic by the person complained against, which may result from disease, injury, congenital condition of birth or functional disorder and which characteristic is unrelated to the person's ability to perform the duties of a particular job or position. <i>Id.</i> at §1-103(I).	<b>Citizenship Status.</b> The status of being: (1) a born U.S. citizen; (2) a naturalized U.S. citizen; (3) a U.S. national; or (4) 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 a federal law. <i>Id.</i> at §2-101(K).

<sup>6</sup> Ancestry, race, and color are not defined by the Human Rights Act; however, the U.S. Equal Employment Opportunity Commission (EEOC) has issued guidance on the definition of color and race. The EEOC guidance states that "color" is "commonly understood [to mean] pigmentation, complexion, or skin shade or skin tone." Race includes physical characteristics associated with race, "such as a person's color, hair, facial features, height and weight," race-linked illnesses, and cultural characteristics related to race or ethnicity. *EEOC Compliance Manual*, Doc. No. 915.003, at 15 (2006). *Black's Law Dictionary* defines ancestry as "a line of descent; collectively, a person's forebears; lineage." *Black's Law Dictionary* (11<sup>th</sup> ed. 2019).

The Human Rights Act also outlines other forms of discrimination that are civil rights violations, including provisions related to language, immigration-related practices, religious discrimination, reasonable accommodations for pregnancy, and training and apprenticeship programs. This section outlines information about those protections.

**Language.** Language refers to a person's native tongue, such as Polish, Spanish, or Chinese, but does not include slang, jargon, profanity, or vulgarity. *Id.* at §2-102(A-5). It is a civil rights violation “for an employer to impose a restriction that has the effect of prohibiting a language from being spoken by an employee in communications that are unrelated to the employee’s duties.” *Id.*

**Immigration-related practices.** It is a civil rights violation for an employer to use more or different documents than are required under certain federal laws or to refuse to honor documents that on their face appear to be genuine. If the employer is participating in the E-Verify program, it cannot take adverse employment actions without following the procedures under that program. *Id.* at §2-102(G).

**Religious discrimination.** It is a civil rights violation “for any employer to impose upon a person as a condition of obtaining or retaining employment, including opportunities for promotion, advancement, or transfer, any terms or conditions that would require such person 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,” unless the employer cannot reasonably accommodate the prospective employee or employee without undue hardship on the employer’s business. *Id.* at §2-102(E-5). An employer is also permitted to enact a dress code or grooming policy in order to maintain workplace safety or food sanitation. *Id.* Further, it is a civil rights violation for a public employer, consistent with operational needs, to refuse to permit a public employee, who takes time off work to practice religion, from performing his or her work during the employee’s non-scheduled hours in order to compensate for work time lost for such religious reasons. *Id.* at §2-102(E).

**Reasonable accommodation for pregnancy.** The Human Rights Act outlines reasonable accommodations that are afforded to individuals related to pregnancy or childbirth. It is a civil rights violation for an employer not to make a reasonable accommodation for any medical or common condition of a job applicant or employee related to pregnancy or childbirth, unless the employer can demonstrate that it would impose an undue hardship on the ordinary operation of the business. *Id.* at §2-102(J). It is also unlawful for an employer to require a job applicant or employee to accept an accommodation when that individual did not request one. *Id.* An employer may not require an employee to take leave, if another reasonable accommodation can be provided. *Id.* An employer shall 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, unless the employer demonstrates that the accommodation would impose an undue hardship on the ordinary operation of the business. *Id.* Further, an employer may not deny employment opportunities or benefits or take adverse action because an individual needs a reasonable accommodation. *Id.*

**Training and apprenticeship programs.** It is a civil rights violation “for any employer, employment agency or labor organization to discriminate against a person on the basis of age in the selection, referral for or conduct of apprenticeship or training programs.” *Id.* at §2-102(F).

Examples of unlawful discrimination:

- Refusing to hire someone because of his or her race.
- Refusal to promote someone because of his or her sex

In addition, conduct may amount to unlawful discrimination if, based on a person’s actual or perceived membership in one or more of the protected classes outlined above, an employer takes action involving:

- recruitment;
- hiring;
- promotion;
- demotion;
- renewal of employment;
- selection for training or apprenticeship;
- discharge;
- discipline;
- tenure of terms;
- privileges; and/or
- other conditions of employment.

Unlawful discrimination occurs when an employer takes a discriminatory employment action because of an applicant’s or employee’s actual or perceived membership in one of the protected classes above. However, it does not prevent an employer from taking employment action for another reason unrelated to an applicant’s or employee’s membership in a protected class.

**“Harassment”** means: “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. 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.” 775 ILCS 5/2-101(E-1).

Example of harassment:

- Offensive or degrading remarks about a person’s religion.

Additional examples of conduct that could amount to harassment if based on a person's actual or perceived membership in one or more protected classes include:

- offensive jokes;
- slurs;
- epithets or name calling;
- physical assault(s);
- threats;
- intimidation, ridicule, or mockery;
- insults or put-downs;
- offensive objects or pictures;
- deliberate touching, leaning over, or cornering;
- offensive looks or gestures; and/or
- letters, telephone calls, personal e-mails, texts, or other materials of an offensive nature.

### Review Question # 6

Brenda is a CTA hiring manager who is looking to hire someone in a position that requires someone with an accounting degree. Upon reviewing a list of internal candidates, she excludes applicants who are female and who are over 50, while also excluding candidates because they did not have a college degree. Which, if any, of the exclusions, would be considered discriminatory?

- A. Exclusions based on sex.
- B. Exclusions based on age.
- C. Exclusions based on education.
- D. A and B
- E. All of the above

Select the best answer(s) then compare your response to the explanation below.<sup>7</sup>

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<sup>7</sup> The best response to Review Question # 6 is D. Brenda may not eliminate whole classes of people in protected classes when selecting a candidate. Both age and sex are protected classes, therefore answers A and B are correct. Answer C is incorrect because education level is part of this job requirement.

### Review Question # 7

Nikki served in the U.S. Marines before working at the CTA. Coworkers in her department believe that the U.S. Military violates human rights, and thus they are anti-military. The workers post flyers disparaging the military and refer to Nikki as a “baby killer,” “war criminal,” and other derogatory terms. Nikki has had difficulty doing her work because of these comments. Nikki explains to her coworkers that the flyers and terminology they use to describe her are offensive, but her coworkers continue with their behavior. Is this harassment?

- A. No, because military status is not a protected class.
- B. No, because her coworkers are exercising free speech rights.
- C. Yes, her coworkers’ conduct is unwelcome, severe, based on Nikki’s military status, and has the purpose or effect of substantially interfering with her work performance or creating an intimidating, hostile, or offensive working environment.

Select the best answer(s) then compare your response to the explanation below.<sup>8</sup>

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<sup>8</sup> The best response to Review Question # 7 is C. Employees are prohibited from harassing someone based on military status, which is a protected class under the Illinois Human Rights Act. In this case, referring to someone as a “baby killer” is severe. Nikki’s coworkers engaged in unlawful harassment because their conduct is unwelcome, based on Nikki’s military status, and has the purpose or effect of substantially interfering with her work performance or creating an intimidating, hostile, or offensive working environment. Answer A is incorrect as it misstates the law. Answer B is also incorrect because her coworkers do not have a constitutional right to engage in harassment.

### Review Question # 8

Frances is a CTA employee who just announced her pregnancy to her coworkers. Will, her supervisor, tells her he is happy she is pregnant because he thought she was just gaining weight. He continues to comment on her growing belly and states that “It’s OK to be as big as a house” because Frances is pregnant. Although Frances advises Will that his words are offensive, he laughs and continues to make comments for several weeks. Frances files a complaint with her EEO Officer claiming harassment. Do Will’s actions constitute harassment?

- A. Yes, Will’s conduct constituted unlawful harassment.
- B. No, because Will was only joking.
- C. No, because Will was only making an observation.

Select the best answer(s) then compare your response to the explanation below.<sup>9</sup>

### How to Report Sexual Harassment, Harassment, or Discrimination

There are many ways an employee can address sexual harassment, harassment, or discrimination.

Sometimes an employee can resolve sexual harassment, harassment, or discrimination on his/her own. An individual who finds a person’s behavior or language to be offensive should ask that person to stop. If the conduct continues or the employee is uncomfortable confronting the individual directly, the employee should report the incident or behavior to his/her supervisor.

Where the person being harassed cannot report the incident to his/her direct supervisor (the employee may be uncomfortable discussing with the supervisor, or the supervisor may even be the harasser), the employee may report the incident to CTA’s EEO Officer at 312.681.3788. Complaints may also be reported to CTA’s Ethics Officer, Stephen L. Wood, at 312.681.2924 or [Swood@transitchicago.com](mailto:Swood@transitchicago.com).

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<sup>9</sup> The best response to Review Question # 8 is A. The Illinois Human Rights Act protects individuals from harassment on the basis of pregnancy. In this case, Will makes frequent comments to Frances about her body and pregnancy and these comments are unwelcome and create an offensive working environment. Answer B is incorrect, because harassment can occur even if that was not Will’s intent. Answer C is correct because Will’s actions were not merely an “observation” considering he made several continuing untoward comments about Frances’ pregnancy even after she advised him that she considered them offensive.

Complaints remain confidential and the CTA makes a reasonable attempt to honor requests for confidentiality consistent with legal requirements. The CTA promptly and thoroughly investigates allegations of sexual harassment, harassment, and discrimination and provides the employee with a final resolution of the complaint, consistent with the employee's confidentiality request. Every employee must cooperate with a CTA investigation, if requested.

The intentional filing of a false harassment claim is a violation of CTA's EEO Policy and CTA's Sexual Harassment Policy. An employee who files a false sexual harassment, harassment, or discrimination claim is subject to disciplinary action, up to and including termination.

## Other Ways to Report Sexual Harassment, Harassment, or Discrimination

Employees who believe they are victims of sexual harassment, harassment, or discrimination have specific rights under the Illinois Human Rights Act. An employee has the right to file a charge with the Illinois Department of Human Rights. Usually, the IDHR will investigate the charge and may hold a fact-finding conference to gather more information necessary for completing the investigation. The IDHR is located at the James R. Thompson Center, 100 W. Randolph St., 10<sup>th</sup> Floor, Chicago, IL 60601, and its phone number is 312-814-6200. Employees may file a charge in writing. Further information on this process is located on the IDHR website:

<https://www.illinois.gov/dhr/FilingCharge/Pages/default.aspx>

At any time employees may file a complaint with the Office of Executive Inspector General of the State of Illinois. To file a complaint with the OEIG, please use one of the following means:

- (1) Call 866.814.1113;
- (2) Fax 312.814.5479;
- (3) TTY 888.261.2734;
- (4) Log in to **www.inspectorgeneral.illinois.gov** and click on “complaints”; or
- (5) Mail your complaint to one of the OEIG offices:

Office of Executive Inspector General  
Attn: Complaints Division  
69 West Washington, Suite 3400  
Chicago, Illinois 60602

Office of Executive Inspector General  
Attn: Complaints Division  
607 East Adams, 14<sup>th</sup> Floor  
Springfield, Illinois 62701

### Review Question # 9

John, a CTA employee, has unusually large feet. His CTA coworkers refer to him as “Bozo” or “Krusty the Clown.” They also make jokes about Big Foot sightings after he tracks footprints through his work area. Is this considered harassment under the Illinois Human Rights Act?

- A. Yes, bullying someone about their feet violates the Illinois Human Rights Act.
- B. No, having large feet is not a protected class.
- C. No, because John is a male.

Select the best answer(s) then compare your response to the explanation below.<sup>10</sup>

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<sup>10</sup> Answer B is correct. The Illinois Human Rights Act does not protect employees from discrimination solely based on their foot size. Although these actions do not violate the Illinois Human Rights Act, the actions may violate other CTA policies. Answer A is incorrect because foot size alone is not a protected class. Answer C is incorrect, as there is no evidence that John’s coworkers discriminated against him because of his sex. Even though this conduct does not rise to the level of unlawful harassment, John may report this behavior to Human Resources or his supervisor.

## Consequences for Violating the Prohibition on Sexual Harassment, Harassment, and Discrimination

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

### ***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 by the Executive Ethics Commission;
- Is subject to discipline and/or termination by the CTA; and
- May also have fines or penalties imposed by a State or federal agency or court (such as if a charge was filed with the IDHR or in court, and the IDHR or a court determined that improper harassment occurred). 5 ILCS 430/50-5(g)

## Consequences for Knowingly Making a False Report of Sexual Harassment

The Executive Ethics Commission (“EEC”) may levy a fine of up to \$5,000 against any person who intentionally makes a false, frivolous, or bad faith allegation. 5 ILCS 430/50-5(e). Further, 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. 5 ILCS 430/50-5(d). Similarly, an employee who knowingly makes a false complaint violates CTA’s EEO Policy and CTA’s Sexual Harassment Policy, and is subject to discipline, up to and including termination.

### Review Question # 10

Although he is not qualified, Conrad is seeking a promotion within his department and more pay. After Conrad's repeated requests, his supervisor, Kourtney, tells him that he is not eligible for a promotion or a pay raise. Conrad is upset and files a harassment claim with his EEO Officer, alleging that Kourtney refuses to promote him because he refuses her demands to give her massages. Conrad knows that he did not receive a promotion because he is not qualified, and Kourtney never treated him differently than his coworkers. The EEO Officer investigates Conrad's claim, and finds that Conrad intentionally filed a false claim of harassment against Kourtney. Did Conrad's filing of a false report against Kourtney violate CTA policies?

- A. No, because Kourtney suffered no consequences after the false report.
- B. Yes, he violated CTA's Sexual Harassment Policy and EEO Policy, both of which prohibit filing a false harassment claim.
- C. No, because he did not report the claim to his Ethics Officer.

Select the best answer(s) then compare your response to the explanation below.<sup>11</sup>

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<sup>11</sup> Answer B is correct. CTA's Sexual Harassment Policy and EEO Policy prohibit the filing of fraudulent sexual harassment claims. Filing a fraudulent claim may subject Conrad to discipline, up to and including termination of employment. Filing a fraudulent claim may also subject him to administrative fine for violating the Ethics Act. Answer A is incorrect. Even though Kourtney was not found to have committed retaliation, Conrad's actions violated CTA policies. Answer C is incorrect because filing a false report with the EEO Officer violates CTA's policies regardless of if he fails to file it with the Ethics Officer.

## Information About Retaliation

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

Retaliatory action means reprimand, discharge, suspension, demotions, denial of promotion or transfer, or change in the terms or conditions of employment of any CTA employee that occurs in retaliation for an employee's involvement in these protected activities. These are examples of retaliatory conduct.

Under the Ethics Act, 5 ILCS 430/15-10, a CTA employee cannot take retaliatory action against a CTA employee who (1) reports allegations of sexual harassment, harassment, or discrimination, (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. If retaliatory action occurs, the OEIG can investigate this matter and recommend discipline. An employee can also bring a lawsuit pursuant to the Ethics Act. Anyone who intentionally violates this prohibition on retaliation is guilty of a misdemeanor and is subject to discipline or discharge. 5 ILCS 430/50-5(a), (f).

Under the Illinois Human Rights Act, it is a civil rights violation to retaliate against someone who opposes that which they reasonably and in good faith believe to be unlawful discrimination or sexual harassment. 775 ILCS 5/6-101(A).

Under the Illinois Whistleblower Act, 740 ILCS 174 et seq., “[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).

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 attorneys' fees.

### Review Question # 11

Olivia, a CTA employee, overhears her manager, Peter, state that he refuses to promote Mexican employees because he believes they are unreliable. Another anonymous employee reported the manager's discriminatory tactics. EEO investigates the claim and seeks to interview Olivia. Reluctantly, Olivia states what she overheard and further states her belief that it appears that her manager is discriminating against Mexican employees because of their national origin. Peter learns that Olivia spoke with EEO, and then suspends Olivia for two days, claiming that she failed to account for the time that she was away from her desk for the interview, which is not true. Are Peter's actions retaliatory?

- A. No, because Peter (as a supervisor) has a right to discipline his staff for violations of policy.
- B. Yes, because Peter took adverse action against Olivia because she cooperated with an investigation.
- C. No, because Olivia did not lose her job.

Select the best answer(s) then compare your response to the explanation below.<sup>12</sup>

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<sup>12</sup> The best response to this question is Answer B. Olivia cannot be retaliated against for cooperating with an EEO investigation, and it appears that Peter suspended Olivia for speaking with EEO, and not for a violation of CTA policy. Answer A is incorrect because here it appears that the suspension was issued in retaliation for cooperating with an EEO investigation of a national origin discrimination complaint. Answer C is incorrect because retaliation can include a change in work conditions, which could include adverse job action, including discipline or suspension.



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**Acknowledgement of Participation in:**

**2020 Harassment and Discrimination Prevention Training for Employees of the CTA**

I certify that I have carefully read and reviewed the content of, and completed, the 2020 Harassment and Discrimination Prevention Training for Employees of the CTA. Furthermore, I certify that I understand that 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 CTA employment, administrative fines, and possible criminal prosecution, depending on the nature of the violation.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name  
(first, middle initial, last)

\_\_\_\_\_  
Employee ID Number

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

\_\_\_\_\_  
Date