



Harassment & Discrimination Prevention Training 2019

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Harassment & Discrimination Prohibited

- The Ethics Act requires that: “All 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).
- Sexual Harassment is a violation of the Ethics Act. Engaging in sexual harassment is also a violation of the Human Rights Act as well as other laws and IOC policy. 775 ILCS 5/2-102(D).
- Harassment and discrimination **of any kind** are prohibited by IOC policy.

Harassment & Discrimination Prohibited

- The Ethics Act requires notice that you are also prohibited from engaging in harassment or discrimination as defined by the Human Rights Act. This prohibition also appears in IOC policy.
- The Human Rights Act forbids discrimination and harassment on the basis of someone's actual or perceived membership in one or more of the following protected classes:

- Age
- Ancestry
- Citizenship Status
- Color
- Disability

- Marital Status
- Military Status
- National Origin
- Order of Protection Status
- Pregnancy

- Race
- Religion
- Sex
- Sexual Orientation
- Unfavorable Discharge from Military Service

What is Harassment?

“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.”

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) (emphasis added).

What is 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, or
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.

“Working Environment” is not limited to a physical location an employee is assigned to perform their duties and does not require an employment relationship.

Types of Harassment

- ***Quid Pro Quo.*** "Something for something." This type of harassment occurs when a manager or supervisor communicates to 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 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.

Examples of Harassment

Harassing conduct may include, but is not limited to:

- Offensive jokes
- Physical Assaults or Threats
- Intimidation
- Insults or “put-downs”
- Offensive Objects or Pictures
- Interference with Work Performance
- Epithets of Name Calling
- Slurs
- Ridicule or Mockery
- Deliberate Touching, Leaning Over, or Cornering
- Letters, Telephone Calls, Personal e-Mails, Texts, or other materials of an offensive nature

Examples of Sexual Harassment

Sexual Harassment may include, but is not limited to:

- Unwanted verbal or physical conduct of a sexual nature.
- Unwelcome sexual advances.
- Unwelcome requests for sexual favors.

Examples of Sexual Harassment

Another way to think about it, Sexual Harassment can be:

- Verbal: name calling, whistling, jokes, comments about a person's body, threats, pressuring someone to go on a date.
- Written: explicit letters, emails, notes, graffiti, comments on social media.
- Visual: explicit cartoons, photos, offensive t-shirts, licking one's lips, blowing kisses, grabbing one's own body parts.
- Physical: touching, grabbing, pinching, groping, bumping, giving unwanted hugs or kisses.

Examples of Sexual Harassment

- Sexual harassment does not always have to be conduct or comments of a sexual nature.
- Includes offensive remarks about a person's sex.
- Unwanted verbal or physical conduct directed at you because of your gender or sexual orientation.
- The victim can be a member of the same sex as the harasser.

Example: sexual harassment could include general, offensive, remarks about men/women made by a harasser of either sex.

What is Discrimination?

“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 military service” 775 ILCS 5/1-103(Q).

Each of the categories listed above has a legal meaning and is further defined in the Human Rights Act.

Examples of Discrimination

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.

The prohibitions against discrimination 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.

What Should IOC Employees Do?

- ✓ Get Serious. It's no joke!!
- ✓ Don't brush off offensive or discriminatory conduct.
- ✓ If you see something, say something.
- ✓ Speak up even if they are not directly being harassed.
- ✓ Use IOC resources to help.

Expectations of Complaints:

- ✓ All complaints treated seriously & confidentially.
- ✓ Never ignore an allegation.
- ✓ Take appropriate action to stop harassment and discrimination.

Supervisor Responsibilities

- ✓ Encourage employees to speak up.
- ✓ Monitor workplace behavior, enforce a respectful environment.
- ✓ Let employees know you are a resource they can use to get help.
- ✓ Quickly address potentially harassing or discriminatory conduct or actual incidents whenever you see or hear about them.

Remember: Supervisors are a “front line” resource

What Should I Do?

- ✓ Respond to allegations immediately. Keep things as confidential as possible.
- ✓ Collect as much information as possible while it's fresh in your mind.
- ✓ If you believe there is Quid Pro Quo, Discrimination, or Hostile Work Environment, report it immediately to HR or the OEIG.
- ✓ Supervisors must take appropriate corrective action and follow-up.
- ✓ If you are unsure of what steps to take, ask for help.

DO NOT

- ✓ Wait and See
- ✓ Ignore the Conduct or Complaint

IOC Resources for Help

- Supervisors
- Joanna Belle Gunderson -
Executive Inspector General
- Michele Cusumano -
Human Resources Director
- Javier Cazares -
Equal Employment Opportunities Officer
- Adam Alstott -
Ethics Officer & Deputy General Counsel

Other Resources for Help



IL Department of Human Rights
535 W. Jefferson, 1st Floor
Springfield, IL 62702
(217) 785-5100

or

100 W. Randolph St, 10th Floor
Chicago, IL 60601
(312) 814-1436

or

2309 W. Main St.
Marion, IL 62959
(618) 993-7463



U.S. Equal Employment
Opportunity Commission

www.eeoc.gov

800/669-4000

Other Resources for Help

The IDHR operates a helpline for reporting sexual harassment and discrimination.

The helpline number is 1-877-236-7703.

There is also a website for reporting:

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

Through the helpline:

- individuals can receive help with finding resources, including counseling services;
- individuals can receive assistance with filing sexual harassment and discrimination complaints with the IDHR or other agencies;
- individuals may anonymously report sexual harassment and discrimination in both State employment and private-sector employment; and
- for individuals who are subject to the Ethics Act, the IDHR will report the allegations to the OEIG for further investigation if the person making the report gives the IDHR permission.

All communication submitted to the IDHR through the helpline, including by Internet, will be confidential and exempt from disclosure under the Freedom of Information Act.

Penalties

It is a violation of the Ethics Act to engage in sexual harassment, and any person who violates the Ethics Act's prohibition on sexual harassment:

- may be fined up to \$5,000 per offense;
- is subject to discipline or discharge; and
- may also have finances or penalties imposed by a State or federal agency or court.

Although "harassment" and "unlawful discrimination" are not specific violations of the Ethics Act, there are serious consequences for engaging in unlawful discrimination and harassment, which may include being disciplined or terminated for violating the law or IOC policy.

In addition, engaging in sexual harassment, harassment, unlawful discrimination, or retaliation can subject you to proceedings before the Illinois Human Rights¹⁹ Commission or State and Federal courts.

False Reports & Failure to Cooperate

False Reports

The EEC may levy a fine of up to \$5,000 against any person who intentionally makes a false, frivolous, or bad faith allegation, or who intentionally obstructs or interferes in an OEIG investigation. 5 ILCS 430/50-5(e).

Any person who intentionally makes a false report alleging a violation of any provision of the Ethics Act to the OEIG, EEC, or certain law enforcement agencies or officials is guilty of a misdemeanor. 5 ILCS 430/50-5(d).

Failure to Cooperate

Failure to cooperate with an OEIG investigation conducted pursuant to the Ethics Act, including intentional omissions and knowing false statements, is grounds for disciplinary action, including dismissal. 5 ILCS 430/20-70.

Victims Have Rights

Known victims of alleged discrimination, harassment, or sexual harassment have the following rights:

- Notification of receipt of the complaint and the process, rules and procedures for the investigation
- Notification of decision of the OEIG to open, close, or refer a complaint
- Option to review a transcript or recording of their interview and any documents the victim provides to the OEIG
- Option to have an uninvolved person present at any interview or meeting with the OEIG
- Option to submit a victim's impact statement to the OEIG and EEC
- Right to testify at any hearing before the EEC on the discrimination, harassment, or sexual harassment allegations
- Right to review any reports being released by the EEC prior to their publication and to suggest redactions to the EEC
- Must keep the report confidential or violate the Ethics Act
- Ability to file a complaint with the EEC for violation of these rights by the OEIG

Rights solely available at the option of the victim, and only if the victim is known to the OEIG

Rights waived if the victim fails to cooperate with the OEIG during the investigation of the complaint

Whistle Blowers are Protected By Law

Actually THREE Laws:

The Ethics Act, The Human Rights Act, and the Illinois Whistleblower Act

Definition of a Whistle Blower:

A person who exposes any kind of information or activity, within a public or private organization, that is deemed illegal, unethical, or not correct.

Example:

An employee receives retaliatory conduct after a potential violation or law, rule, or policy is raised. The employee is protected from retaliation under Illinois law as a whistle blower.

Retaliation is Unlawful and NOT Tolerated

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

The Ethics Act prohibits any retaliatory action against a State employee because the State employee:

1. Discloses or threatens to disclose to a supervisor or to a public body an activity, policy, or practice of any officer, member, State agency, or other State employee that the State employee reasonably believes is in violation of a law, rule, or regulation.
2. Provides information to or testifies before any public body conducting an investigation, hearing, or inquiry into any violation of a law, rule, or regulation by any officer, member, State agency, or other State employee.

Assists or participates in a proceeding to enforce the Ethics Act provisions.

Retaliation is Unlawful and NOT Tolerated

The Ethics Act describes retaliatory action as reprimand, discharge, suspension, demotion, denial of promotion or transfer, or change in the terms or conditions of employment of an employee that occurs in retaliation for an employee's involvement in the protected activities. 5 ILCS 430/15-5.

If retaliatory action occurs, the OEIG can investigate the matter and recommend discipline. An employee can also bring a lawsuit pursuant to the Ethics Act. Anyone who intentionally violates this prohibition on retaliation in the Ethics Act is guilty of a misdemeanor and is subject to discipline or discharge. 5 ILCS 430/50-5(a), (f).

Retaliation is Unlawful and NOT Tolerated

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

Illinois Whistleblower Act: An 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). Further, an employer shall not retaliate against an employee for refusing to participate in an activity that would result in a violation of a State or federal law, rule, or regulation. 740 ILCS 174/20. If an employer retaliates against an employee in violation of the Illinois Whistleblower Act, and the employee succeeds in a civil suit, the employee may receive relief necessary to make the employee whole, including reinstatement into their position, back pay with interest, and compensation for damages. 740 ILCS 174/30.

Takeaways

- Harassment and Discrimination are NOT tolerated under Illinois law
- Harassment and Discrimination are NOT tolerated under IOC Policy
- There is NO place at the IOC for this kind of behavior and there will be NO tolerance for it occurring

- If you see something, say something
- Reports can be kept confidential and can be anonymous
- Whistleblowers are protected from retaliation