

2018 Sexual Harassment Training
for New State of Illinois Employees
under the Jurisdiction of the Governor

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Introduction/General Principles

As an employee of the State of Illinois, you are subject to various laws, rules, policies, and regulations, some of which may be particular to your agency.¹ It is your obligation to become familiar with and comply with the laws, rules, policies, and regulations that apply to you. Your agency Ethics Officer is a resource for you in becoming familiar with these laws, rules, policies, and regulations. If you have questions about these or how they apply to a particular situation, you may discuss the question with the Ethics Officer for your agency.

It is unlawful for any employee of the State of Illinois to engage in sexual harassment.

First, State employees are subject to the State Officials and Employees Ethics Act (“Ethics Act”), 5 ILCS 430 et seq., which is intended to ensure that the functions of State government are conducted with fairness, honesty, and integrity. The Ethics Act prohibits sexual harassment:

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). A violation of that prohibition is a violation of the Ethics Act.

Second, the Illinois Human Rights Act prohibits sexual harassment in State employment, as well as in many private employment settings. Under 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).

This training provides State employees with important information about sexual harassment, including:

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

This training is not intended to provide you with legal counsel and advice. Attorneys of your State agency are not the personal attorneys of any State employee. State employees seeking to understand their legal rights and remedies in specific instances may secure their own personal legal counsel.

¹ This training shall also be made available to new board or commission members appointed by the Governor and to employees of such boards and commissions under the jurisdiction of the Governor.

The Code of Personal Conduct

Executive Order 2016-04, signed by Governor Bruce Rauner on February 26, 2016, directed the Department of Central Management Services to develop and promulgate the State of Illinois' first Code of Personal Conduct.

All employees are subject to the State of Illinois Code of Personal Conduct. The purpose of the Code of Personal Conduct is to:

- Ensure that State employees are conducting the business of the State in an honest and respectful manner.
- Promote accountability to the taxpayers and the people of Illinois.
- Promote honest and ethical conduct and fair dealing.
- Promote compliance with applicable laws, policies, rules, and regulations.
- Deter wrongdoing.

Among other things, the Code of Personal Conduct sets forth specific ethical standards for all State employees. Violations of these standards are subject to discipline up to and including discharge. These standards are applicable to all State employees when on State-compensated time (other than vacation, personal, or compensatory time off, as defined in the Ethics Act), on State property, or carrying out the State employee's official duties, or when there is a nexus between the State employee's off-duty conduct and his or her official duties.

Since the Code's creation, it has held State employees to a commitment that they will work to ensure their workplace is free from sexual harassment. In December 2017, the Code of Personal Conduct was updated to reflect recent legislative changes that clarify and strengthen this commitment.

This ethical standard, to which all State employees are held, is:

Sexual Harassment: *A State Employee will work to ensure that his or her workplace is free from sexual harassment, which is prohibited. 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.*

Any State Employee who witnesses, is subjected to, or becomes aware of such conduct should immediately report the incident to his or her supervisor, Ethics Officer, or applicable State Agency Equal Opportunity Officer, or may make a confidential report to the Office of the Executive Inspector General or the Illinois Department of Human Rights. All

complaints of sexual harassment will be investigated thoroughly,² and appropriate action will be taken when warranted.

Consequences for a violation of the prohibition on sexual harassment or for intentionally making a false report can be found in the State Officials and Employees Ethics Act, 5 ILCS 430/50-5.

State of Illinois Code of Personal Conduct, pages 5-6 (updated December 15, 2017).

The Code of Personal Conduct also includes a prohibition on retaliation, a topic that is discussed in more detail on page 23 of this training.

The Code of Personal Conduct does not preclude a State agency from maintaining or establishing additional rules of personal conduct consistent with the Code of Personal Conduct, applicable law, and the requirements of any collective bargaining agreement. To the extent any State agency policy conflicts with the Code of Personal Conduct, the more restrictive policy will control.

The full Code of Personal Conduct can be found at

<https://www.illinois.gov/sites/TeamIllinois/Documents/Code-of-Personal-Conduct.pdf>.

Agency Personnel Policies

Your agency, board, or commission has its own personnel policies, and it is your duty to become familiar with them. Parts of an agency, like a particular office or division, may have additional policies or procedures.

You should ask your supervisor for any additional policies that may apply to you, and it is your duty to review and comply with them.

These personnel policies and additional policies and procedures may be more restrictive about what constitutes sexual harassment, and you must follow the more restrictive policy. These personnel policies and additional policies and procedures also may provide you with more information about how allegations can be reported, the process for investigating an allegation, potential discipline for a violation of the prohibition on sexual harassment, and other resources available to you.

² The different reporting options follow different investigation processes, as described further on pages 11-21. Please note that of these options, the Office of the Executive Inspector General does not investigate all complaints that it receives and may refer some complaints back to the agency for further investigation. Individuals may choose to report a complaint to one or more of these options.

Sexual Harassment Training

The Illinois Human Rights Act requires every State executive department, agency, board, commission, and instrumentality to provide training on sexual harassment prevention and the agency's sexual harassment policy as a component of all ongoing or new employee training programs. 775 ILCS 5/2-105(B)(5)(c).

The Ethics Act requires every State employee, officer, and member to complete a sexual harassment training program at least annually. Anyone newly elected or appointed must complete training within 30 days of beginning employment or taking office. 5 ILCS 430/5-10.5(a).

It is the responsibility of each State agency to conduct the sexual harassment training required by the Ethics Act and to report to the appropriate ultimate jurisdictional authority regarding those individuals who have or have not completed the training. At least annually, a report will be submitted to the Executive Ethics Commission ("EEC") that includes the names of individuals who failed to complete the required training program. The EEC will make the report available on its website. 5 ILCS 430/5-10.5.

This training is intended to fulfill the Ethics Act's requirement that new employees, officers, or members complete training within 30 days of taking office or beginning employment. ***Proof of completion must be submitted to your Ethics Officer using the Acknowledgement of Participation Form at the end of this training packet.*** Failure to do so will result in your name being included in the report to the EEC, which will be posted on the EEC's website.

In addition to training provided to all employees under the Ethics Act, the IDHR Institute for Training and Development provides further training about sexual harassment. The Institute provides training to both State agencies and private employers. Employees of some agencies receive training tailored to address their particular working environment and unique issues that may apply to their work. More information about IDHR's Institute of Training and Development, including a schedule of upcoming free trainings and training programs that are available, can be found at <https://www.illinois.gov/dhr/Training>.

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,*
- 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.*

Ethics Act, 5 ILCS 430/5-65(b); Illinois Human Rights Act, 775 ILCS 5/2-101(E).

Types of sexual harassment include 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 occurs when inappropriate words, behavior, gestures or materials are available for others to see or someone is offended by the nature of the words, behaviors, gestures or materials. The words, behaviors, gestures or materials have to be either severe or pervasive to be actionable hostile work environment sexual harassment.

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 quid pro quo sexual harassment or contribute to a hostile work environment, including unwelcome physical acts, verbal conduct, or visuals like:

- 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 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 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 E-mail

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 account, 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 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.

Other considerations for whether conduct is sexual harassment:

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

2) *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.

The person subjected to the behavior is not the only person who can report an allegation of quid pro quo sexual harassment or of conduct of a sexual nature that interferes with an individual's work or creates an intimidating, hostile, or offensive working environment. Any person who witnesses or learns of such conduct can and should report it.

3) *The behavior is unwelcome.* Sexual conduct becomes sexual harassment when the behavior is unwelcome. Challenged behavior may be unwelcome in the sense that the victim did not solicit or invite it, and in the sense that the victim regarded the conduct as undesirable or offensive.

4) *Intent vs. impact.* The intent of the alleged harasser is not relevant in determining whether a behavior is sexual harassment. What matters are the way the actions are perceived and the impact on the work environment.

5) *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.

6) *Sexual harassment is not just limited to co-workers and supervisors.*

Individuals 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 be victims of sexual harassment.

What to Do If You Experience or Witness Unwelcome Sexual Conduct

There are many different variations of unwelcome sexual conduct. Some types of conduct are clearly sexual harassment, such as quid pro quo harassment. Other types of conduct may feel like more of a “gray zone,” where you or a coworker feel uncomfortable, but you are not sure whether it is sexual harassment or what to do about it. The actions you choose to take may depend on what type of conduct you are experiencing. Below are some options for addressing unwelcome sexual conduct:

If you experience conduct of a sexual nature that is unwelcome:

- Let the person know that you are offended by this conduct and want it to stop.
- Write down what happened to you, when it happened, who was there, and what was said by all involved.
- Speak with peers whom you trust. Often, the person subjecting you to unwelcome conduct may be bothering others as well.
- 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.
- If the supervisor is the person engaged in the unwelcome behavior, you can report the incident to your agency’s Ethics Officer, to another supervisor, or to the OEIG.
- If the conduct is criminal in nature, such as sexual assault, report the incident to law enforcement authorities immediately.

Anyone who witnesses unwelcome conduct of a sexual nature also has a role:

- You can tell the person to stop the unwelcome behavior.
 - If conduct of a sexual nature is happening around you, but not directed toward you, that can be part of a hostile work environment. You should speak up if it is unwelcome, or if you think the conduct could interfere with another individual’s work performance or create an intimidating, hostile, or offensive working environment. For instance, if a group of colleagues gathers at a nearby co-worker’s desk and shares 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.

- If the supervisor is the person engaged in the unwelcome behavior, you can report the incident to your agency’s Ethics Officer, to another supervisor, or to the OEIG.
- You may be asked to provide information about what you have witnessed.
 - If a report alleging sexual harassment is made or sexual harassment appears to be occurring, someone from your agency, your agency’s Ethics Officer, 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 has filed a charge with the IDHR and is seeking legal recourse through that route, they may list you as a witness. You may be asked to provide testimony or evidence in connection with those proceedings.

Whether you personally experience or are a witness to unwelcome conduct of a sexual nature, 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. Pages 21-22 discuss reporting work-related conduct of a sexual nature, even if the person who has experienced or learned of the conduct thinks it may not meet the definition of sexual harassment.*

Reporting an Allegation of Sexual Harassment

Any State Employee who witnesses, is subjected to, or becomes aware of such conduct should immediately report the incident.

State of Illinois Code of Personal Conduct, pages 5-6 (updated December 15, 2017).

This section details various reporting options available to State employees when they wish to report an allegation of sexual harassment. Please be advised that these various options trigger different procedures and offer different rights and remedies to a State employee who makes an allegation. The choice of whether and 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.

More detail about each of the options – your supervisor, your agency Ethics Officer, the OEIG, and IDHR – is provided in the sections that follow, including where to find more information and how to start the reporting process.

Your supervisor and agency Ethics Officer are both part of your agency. The OEIG and IDHR are separate entities outside your agency, and they have different roles. Some important distinctions between their two processes are:

| | Office of Executive Inspector General | Illinois Department of Human Rights |
|--|---|--|
| When to Report | Within one year of the most recent act of the alleged violation or of a series of alleged violations. 5 ILCS 430/20-20. | Must file a charge within 180 days of the incident. |
| Confidential/ Anonymous | <p>The OEIG accepts complaints from anonymous sources.</p> <p>Pursuant to the Ethics Act, “[t]he identity of any individual providing information or reporting any possible or alleged misconduct to an Executive Inspector General or the Executive Ethics Commission shall be kept confidential and may not be disclosed without the consent of that individual, unless the individual consents to disclosure of his or her name or disclosure of the individual's identity is otherwise required by law.” 5 ILCS 430/20-90.</p> <p>During an investigation, the OEIG may interview witnesses and obtain documents and other information from the alleged victim of sexual harassment and the alleged harasser, as well as witnesses such as coworkers and supervisors.</p> <p>OEIG founded reports may be made public in accordance with applicable law.</p> | No. The IDHR process is not an anonymous process, in that the person or entity accused of harassment (known as the respondent) will be made aware of your identity and your allegations. At the conclusion of an investigation, the investigation report and portions of the investigative file may be accessible to the public. |
| Your Involvement in the Process | You may be asked to provide an interview or additional information. You may have little or no involvement after making a report. The Ethics Act confidentiality provisions prohibit the OEIG from providing updates on the status of investigations. | The IDHR process first includes an investigation where you may be asked to provide testimony and evidence, and where the IDHR will issue a finding. During the IDHR process, you may be asked to participate in mediation. There may be opportunities to settle the charge. |
| Referrals | The OEIG may refer matters to appropriate entities, including law enforcement or your State agency, for further investigation and/or potential discipline. | After IDHR issues its finding, you may choose to file a civil suit in the Circuit Court. If IDHR finds substantial evidence of sexual harassment, a complaint may be filed with the Human Rights Commission. |
| Potential Investigative Results | The harasser/wrongdoer may be subject to a fine, discipline up to and including termination, and/or the State agency may take other remedial action. A victim does not receive compensation from the harasser. | The victim of harassment may receive actual damages for any injury or loss, including being hired, reinstated, or upgraded, or provided fringe benefits or back pay. There may also be an order to stop the unlawful conduct. |

Reporting an Allegation of Sexual Harassment to Your Supervisor

Your agency may have specific policies and processes in place to report an allegation of sexual harassment to your supervisor. You should consult your agency's handbook and other policies and become knowledgeable about when and how you should report an allegation of sexual harassment to your supervisor.

Your supervisor:

- Will know the internal practices of your agency first hand, and will be in a position to effect change and to help you navigate your agency's internal complaint process.
- Should strive to honor your request to keep information confidential that you request remain confidential as part of your report.
- Should share information only as required by law or in order to effect necessary management action to address your allegation.
- May seek assistance from or report the allegation to the agency Ethics Officer.

You may choose to report to your 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 create an intimidating, hostile, or offensive working environment, your supervisor can be an important resource in addressing it.

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

Reporting an Allegation of Sexual Harassment to Your Agency Ethics Officer

Your agency Ethics Officer acts as a liaison between your agency and the OEIG and the EEC. The role of your Ethics Officer includes providing guidance to State employees in the interpretation and implementation of the State Officials and Employees Ethics Act.

Your Ethics Officer is an important resource. 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. He or she will be knowledgeable about the sexual harassment reporting process conducted by the OEIG and by the IDHR, processes described below. Your Ethics Officer can assist you in making a report to these entities or to your supervisor. Pursuant to Executive Order 4 (2016), your Ethics Officer must promptly notify the OEIG of any allegations of misconduct after receiving such information.

Additionally, if an allegation of sexual harassment involves your supervisor, or if you are uncomfortable with your supervisor or are concerned that he or she will not handle the allegation appropriately, you can report to your Ethics Officer, the OEIG, or IDHR. Your agency Ethics Officer also can assist with directing your allegation to another supervisor or member of your agency's management who can address it instead of your supervisor, if you would like to have your allegation addressed through management action. In some agencies and in some circumstances, your Ethics Officer may be responsible for investigating the allegation himself or herself.

You can find your agency Ethics Officer's contact information via the Internet at:

<http://www.inspectorgeneral.illinois.gov>

Your Ethics Officer should strive to keep confidential information that you request to remain confidential as part of your report, and should share information only as required by law or in order to effect necessary action to address your allegation.

Reporting an Allegation of Sexual Harassment to the 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, and approximately 300 boards and commissions, plus vendors doing business with those agencies and entities. **It does not represent any party or agency in an investigation and does not investigate on behalf of any individual or agency.**

The primary 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 investigates, when appropriate, alleged violations of law, rule, or regulation committed by any employee of or those doing business with an entity under its jurisdiction. For example, the OEIG investigates allegations of waste, fraud, abuse of authority, or corruption. The OEIG investigates violations of the Ethics Act, which now contains a prohibition on sexual harassment.

A complaint may be filed with the OEIG in writing, preferably on an OEIG complaint form, or orally. A complaint may be filed with the OEIG by:

1. Completing a form online at <http://www.inspectorgeneral.illinois.gov>;
2. Calling the Office's toll-free hotline (866) 814-1113;
3. Sending a completed complaint form to the 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 Office by telecommunications device for the disabled (TTY) at (888) 261-2734; or
6. Scheduling an appointment with the Office at its Springfield or Chicago locations.

The OEIG may accept complaints that are filed anonymously.

Anyone filing a complaint must provide sufficient detail about the allegation in order for an investigation to be started.

If filing a complaint with the OEIG:

*The complaint must be filed **within a year** of the event(s) at issue.*

The complaint must relate to conduct of (1) an employee of an executive branch agency or other entity under the OEIG's jurisdiction, (2) a person or entity (like a vendor) that does business with an entity under the jurisdiction of the OEIG, or (3) an employee of transit agencies RTA, CTA, Metra, or Pace, and vendors and others doing business with the transit agencies.

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

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

OEIG 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 also 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.

Confidentiality of Investigative Files

The Ethics Act provides that “[u]nless otherwise provided in this Act, all investigatory files and reports of the Office of an Executive Inspector General, other than monthly reports required under Section 20-85, are confidential, are exempt from disclosure under the Freedom of Information Act, and shall not be divulged to any person or agency, except as necessary (i) to a law enforcement authority, (ii) to the ultimate jurisdictional authority, (iii) to the Executive Ethics Commission, (iv) to another Inspector General appointed pursuant to this Act, or (v) to an Inspector General appointed or employed by a Regional Transit Board in accordance with Section 75-10.” 5 ILCS 430/20-95(d).

Pursuant to the Ethics Act, “[t]he identity of any individual providing information or reporting any possible or alleged misconduct to an Executive Inspector General or the Executive Ethics Commission shall be kept confidential and may not be disclosed without the consent of that individual, unless the individual consents to disclosure of his or her name or disclosure of the individual's identity is otherwise required by law.” 5 ILCS 430/20-90.

OEIG Founded Summary Reports

If the OEIG conducts an investigation and determines that the allegation is founded, the OEIG issues a founded summary report and makes recommendations, including recommendations for discipline and remedial action. That report is sent to the appropriate ultimate jurisdictional authority and to the head of each State agency affected by or involved in the investigation, if appropriate. 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 that will be imposed. 5 ILCS 430/20-50(a).

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 may also request that the Illinois Attorney General file a complaint with the EEC. If the Illinois Attorney General proceeds to file a complaint, on the OEIG's behalf, and if the EEC decides that a violation of the Ethics Act did indeed occur, the EEC may impose an administrative fine or take other appropriate injunctive relief. A decision of the EEC to impose a fine or injunctive relief is subject to judicial review.

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 of employment. However, the EEC has discretion to publish OEIG founded summary reports that do not result in suspension of three days or more or termination of employment. Prior to 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.

Reporting an Allegation of Sexual Harassment to the Department of Human Rights

The IDHR is a State agency that administers the Illinois Human Rights Act, 775 ILCS 5 et seq. 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).

One of IDHR’s important roles is to investigate charges of discrimination, including allegations of sexual harassment in employment. 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. IDHR does not make a credibility determination when there is conflicting evidence.

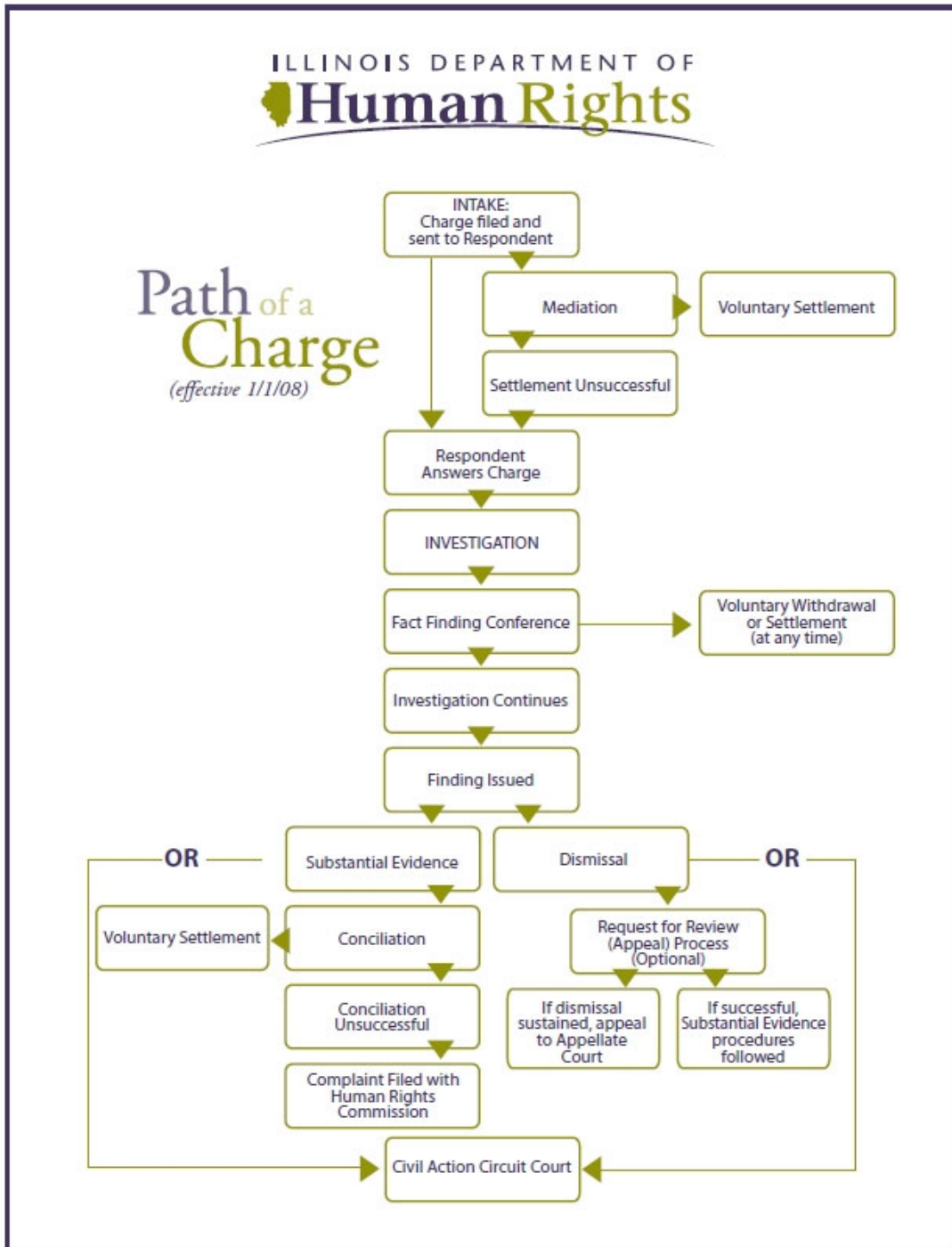
A finding of “substantial evidence” means that there is enough evidence to take the case before an administrative law judge at the Illinois Human Rights Commission (“HRC”), a separate State agency that conducts public hearings. During this process, IDHR facilitates opportunities to resolve the allegation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

After IDHR issues its finding, a complainant may file a lawsuit in civil court, or if a finding of “substantial evidence” is made, file a complaint with the HRC. That forum (either the HRC or the circuit court) will hear testimony, receive evidence, and determine whether unlawful discrimination or harassment occurred.

If a complainant wins in court or at the HRC, the judge or 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, emotional damages, hiring, promotion, reinstatement, front pay where reinstatement is not possible, and attorney’s fees and costs. Punitive damages, or damages intended to punish the harasser or the employer, are not available under the Illinois Human Rights Act.

This process through IDHR and 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 – and it requires involvement by the person who filed the complaint. Some individuals who pursue their complaints through the IDHR process and HRC or a court choose to seek the assistance of an attorney, while others proceed without an attorney.

The path of a charge through the Department of Human Rights is:



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The process begins by filing a “charge” (or a report of an allegation) to IDHR within 180 days of the incident. The first step in filing a charge is to submit information in person or in writing by mail or fax, using a Complainant Information Sheet that is available on the IDHR website at www.illinois.gov/dhr/FilingCharge/Pages/Intake.aspx. It requires detailed information, including contact information, employer information, most recent date of the alleged sexual harassment, witness information, and copies of relevant documents.

Timing matters!

A charge must be filed with IDHR within **180 days** of the incident.

The IDHR website is 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.

IDHR has offices at:

Chicago

James R. Thompson Center
100 W. Randolph St. Suite 10-100
Chicago, IL 60601
312-814-6200
866-740-3953 (TTY)

Springfield

222 South College St. Room 101A
Springfield, IL 62704
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.

The Department of Human Rights Hotline

By February 2018, IDHR will operate a hotline for reporting sexual harassment. The hotline will include a toll-free telephone number with voicemail and a website for reporting.

Through the hotline:

- IDHR will offer help with finding resources, including counseling services.
- IDHR will assist with filing sexual harassment complaints with IDHR or other agencies.
- People may anonymously report sexual harassment in both State employment and private-sector employment.
- 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 General³ for further investigation *if the person making the report gives permission for IDHR to do so.*

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

When the hotline is operational, it will be advertised on the IDHR website and in other materials related to sexual harassment.

Addressing Other Types of Sexual Conduct in the Workplace

Your supervisor, agency Ethics Officer, OEIG, and IDHR are all available to you to report allegations of sexual harassment. Each investigates allegations of sexual harassment through its own process and offers different types of potential resolutions and remedies for sexual harassment.

But what about conduct that does not fit within the definition of “sexual harassment” but is unwelcome?

Conduct of a sexual nature that is unwelcome can be brought to your supervisor, Ethics Officer, or other management. Conduct does not have to be “quid pro quo,” substantially interfering with work performance, or already creating an intimidating, hostile, or offensive environment for it to be inappropriate in the workplace.

Even if you do not want to make a formal sexual harassment allegation or complaint, that does not mean you are without options.

³ Allegations related to the legislature and its employees are routed to the Legislative Inspector General.

A supervisor, Ethics Officer, or other management can address the conduct according to your agency's processes. Based on the circumstances at issue, they can look into the matter further or conduct an investigation, provide counseling or take other management action to try to end the conduct, connect you to other individuals who may be able to address the conduct (such as the supervisor of the person engaged in the conduct), assist you in making a sexual harassment allegation if that is appropriate, or direct you to other resources.

For example:

- If you experience an incident of unwelcome conduct of a sexual nature, others may be experiencing similar conduct from the same person. Informing your supervisor or others at your agency may help them understand the scope of the issue and determine appropriate action.
- Where coworkers are uncomfortable because of unintentional actions, such as someone who naturally stands close to individuals he/she converses with or where a turn of phrase is perceived differently by people of different backgrounds, a supervisor or someone else at the agency level may be able to help raise awareness before it becomes a problematic situation.
- If you experience unwelcome conduct that does not yet interfere with your or others' work performance or create an intimidating, hostile, or offensive working environment, your supervisor and others at your agency may be able to address it before it does.

If the conduct you report does meet the definition of sexual harassment in the Illinois Human Rights Act and the Ethics Act, your supervisor or other person to whom you reported it within your agency should share that information with the Ethics Officer or the OEIG if you have not already done so.

If conduct is criminal in nature, such as assault, it should be reported to the appropriate law enforcement authorities.

Additionally, your agency Equal Employment Opportunity Officer is another in-agency resource for addressing or investigating sexual harassment-related issues, as well as any allegations of discrimination. Your agency's policies and procedures should provide you with more information about their role.

Whistle Blower 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 means 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. These are examples of retaliatory conduct.

Under the Ethics Act, 5 ILCS 430/15-5 et seq., 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. 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 “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).

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 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. Failure to cooperate with an investigation of the Executive Inspector General . . . is grounds for disciplinary action, including dismissal.” 5 ILCS 430/20-70.

Any person who intentionally obstructs or interferes with an investigation conducted by the OEIG may be subject to an administrative fine of up to \$5,000, levied by the EEC. 5 ILCS 430/50-5(e).

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 misdemeanors.

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).*

See 5 ILCS 430/50-5(g).

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. 5 ILCS 430/50-5(e).*
- *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. See 5 ILCS 430/50-5(d).*

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. 5 ILCS 430/50-5(e).*
- *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. 5 ILCS 430/20-70.*



Acknowledgement of Participation in:

2018 Sexual Harassment Training for New State of Illinois Employees

I certify that I have carefully read and reviewed the content of, and completed, the 2018 Sexual Harassment Training for New State of Illinois Employees 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/appointment, administrative fines, and possible criminal prosecution, depending on the nature of the violation.

Signature

Printed Name
(first, middle initial, last)

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

Date

State Agency Name / Work Location
(for example, Illinois Department of Labor / Elgin MHC)