



# 2018 SEXUAL HARASSMENT TRAINING

for State of Illinois Employees  
under the Jurisdiction of the Governor

*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)

State Officials and Employees Ethics Act

# IN THIS TRAINING YOU WILL LEARN...

- 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.

# BACKGROUND: ETHICS IN ILLINOIS

As an employee of the State of Illinois, you are subject to a variety of laws, rules, and policies - including policies that may be specific to your State agency - that govern your ethical conduct.

It is your obligation to become familiar with and obey the laws, rules, policies, and regulations that apply to you.

Three very important codes apply to all State employees:

1. The State Officials and Employees Ethics Act (“Ethics Act”)
2. The Illinois Human Rights Act
3. The State Code of Personal Conduct

# THE STATE OFFICIALS AND EMPLOYEES ETHICS ACT

The Ethics Act is intended to ensure that the functions of State government are conducted with fairness, honesty, and integrity.

In November 2017, Governor Rauner signed Senate Bill 402, which made explicit that sexual harassment is unethical behavior and prohibited by the Ethics Act.

The Act says:

***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).

Violating this provision is a violation of the Ethics Act and can lead to discipline, up to and including termination, and an administrative fine.



# THE ILLINOIS HUMAN RIGHTS ACT

The Illinois Human Rights Act is another law that prohibits sexual harassment in State employment, as well as many private employment settings.

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).

More information about reporting sexual harassment to the Illinois Department of Human Rights is provided later in this presentation.

# THE STATE CODE OF PERSONAL CONDUCT

The Code of Personal Conduct provides important guidelines about employee conduct and the type of workplace employees should work together to have.

The purpose of the Code is:

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

# APPLICABILITY OF THE CODE OF PERSONAL CONDUCT

Applies to **State Employees** in State Agencies:

- All officers;
- Employees (full-time, part-time, and contractual);
- Appointees (paid and unpaid); and
- Persons holding positions like Director, Commissioner, Board Member, or the like.

A **State Agency** is any office, department, agency, board, commission, or authority of the Executive Branch, under the jurisdiction of the Governor.

These standards apply to all State employees when on State-compensated time (other than vacation, personal, or compensatory time off), 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.

Nothing in the Code of Personal Conduct prohibits State Agencies from adopting policies or rules of personal conduct more restrictive than those set forth in the Code.

# THE STATE CODE OF PERSONAL CONDUCT

In December 2017, the Code of Personal Conduct was updated to reflect recent legislative changes that clarify and strengthen this commitment and to ensure that employees of all agencies have the same basic information about what sexual harassment is, that sexual harassment is prohibited, to whom a report can be made, the prohibition on retaliation, and penalties.

Agencies may have additional policies and information on sexual harassment.

# THE CODE OF PERSONAL CONDUCT REGARDING SEXUAL HARASSMENT

The Code of Personal Conduct defines sexual harassment in the same way as the Ethics Act and Illinois Human Rights Act.

The Code of Personal Conduct speaks to reporting of sexual harassment:

“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 Office of the Executive Inspector General or the Illinois Department of Human Rights.”

# THE CODE OF PERSONAL CONDUCT REGARDING SEXUAL HARASSMENT

The Code of Personal Conduct reminds employees of the consequences for sexual harassment and false reporting:

“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.”

**Consequences include agency discipline, up to and including termination.**

The full Code of Personal Conduct can be found at

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

# YOUR AGENCY'S PERSONNEL POLICY

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.

# SEXUAL HARASSMENT TRAINING REQUIRED BY 2 LAWS:

1) 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).

2) 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).

# SEXUAL HARASSMENT TRAINING REQUIRED

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

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

5 ILCS 430/5-10.5.



# WHAT IS SEXUAL HARASSMENT?

# WHAT IS SEXUAL HARASSMENT?

The Ethics Act and Human Rights Act define 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).

# WHAT IS SEXUAL HARASSMENT?

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

**Quid pro quo – “*you do something for me, and I’ll do something for you*”**

This means that a manager or supervisor may not tell a subordinate that in order for them to receive a promotion, raise, preferred assignment, or other type of job benefit – or to avoid something negative like discipline or an unpleasant assignment – the subordinate must do something sexual in return.

## **Hostile work environment**

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.

# WHAT IS SEXUAL HARASSMENT?

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

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

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

# WHAT IS SEXUAL HARASSMENT?

**Examples of conduct that may be sexual harassment include:**

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

# WHAT IS SEXUAL HARASSMENT?

**More examples of conduct that may be sexual harassment include:**

- Turning work discussions to sexual topics
- Asking about sexual fantasies, preferences, or history
- Sexual comments, sexual innuendos, or sexual stories
- Sexual comments about a person's clothing, anatomy, or looks
- Kissing sounds, howling and smacking lips
- Telling lies or spreading rumors about a person's personal sex life
- Neck and/or shoulder massage
- Touching an employee's clothing, hair, or body

# TO UNDERSTAND WHAT SEXUAL HARASSMENT IS & WHEN IT IS TAKING PLACE, YOU SHOULD KNOW THAT:

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

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

# TO UNDERSTAND WHAT SEXUAL HARASSMENT IS & WHEN IT IS TAKING PLACE, YOU SHOULD KNOW THAT:

## **The behavior is unwelcome.**

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

# TO UNDERSTAND WHAT SEXUAL HARASSMENT IS & WHEN IT IS TAKING PLACE, YOU SHOULD KNOW THAT:

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

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

# SEXUAL HARASSMENT DOESN'T TAKE PLACE ONLY IN PERSON

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

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

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

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

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

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

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

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

# HYPOTHETICAL #1

## Question

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

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

Is J sexually harassing D?

- YES
- NO

# HYPOTHETICAL #1

## Answer

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

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

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

Note that State employees need to be mindful of their social media presence and the proper use of State resources, and that conduct does not need to occur in the workplace to constitute sexual harassment. **Can you think of how J's behavior outside of work or "off the clock" could create an offensive work environment for a coworker?**

# HYPOTHETICAL #2

## Question

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

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

# HYPOTHETICAL #2

## Answer

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

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

A hostile work environment occurs when inappropriate words, behavior, gestures or materials are available for others to see; a reasonable person would be offended by the material; and the behavior is unwelcome. D told J to stop, but J continued to send D offensive material. This displays a pattern of sexual harassment. It does not matter that J sent the texts or D received them when they weren't at work and were "off the clock."

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

# HYPOTHETICAL #3

## Question

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

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

Is D sexually harassing J?

- NO
- YES

# HYPOTHETICAL #3

## Answer

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

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

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

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

# HYPOTHETICAL #4

## Question

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

Is D sexually harassing W?

- NO
- YES
- IT DEPENDS

# HYPOTHETICAL #4

## Answer

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

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

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



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

# WHAT TO DO?

There are many different variations of unwelcome sexual conduct.

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

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

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

The actions you choose to take may depend on what type of conduct you are experiencing. Next are some options for addressing unwelcome sexual conduct and how to report it.

# WHAT TO DO?

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

You should tell the person to stop the unwelcome behavior.

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

# WHAT TO DO?

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

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

## WHAT TO DO?

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

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



# **REPORTING AN ALLEGATION OF SEXUAL HARASSMENT**

# REPORTING AN ALLEGATION

**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).

# REPORTING AN ALLEGATION

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

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

# REPORTING AN ALLEGATION

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

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

# HYPOTHETICAL #5

## Question

Continuing our Hypothetical #3, W is a coworker of D and J at the same State agency. D makes sexually explicit comments about J to W. J has asked D to stop talking about J's body to other people, but D has been making the comments for weeks.

Who can report D's comments?

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

# HYPOTHETICAL #5

Answer

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

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

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

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

**All State employees have an obligation to report potential sexual harassment.**

# REPORTING AN ALLEGATION

Three Main Options for Reporting:

1. Office of Executive Inspector General
2. Illinois Department of Human Rights
3. Within Your Agency – Ethics Officer and Supervisors

# OFFICE OF EXECUTIVE INSPECTOR GENERAL

Also known as the “OEIG”

# OFFICE OF EXECUTIVE INSPECTOR GENERAL

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

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

# OFFICE OF EXECUTIVE INSPECTOR GENERAL

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

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

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



# FILING A COMPLAINT WITH THE OEIG

# OFFICE OF EXECUTIVE INSPECTOR GENERAL — FILING A COMPLAINT

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

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

# OFFICE OF EXECUTIVE INSPECTOR GENERAL

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

If filing a complaint with the OEIG:

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

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

# OFFICE OF EXECUTIVE INSPECTOR GENERAL

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

The complaint is then reviewed by the OEIG.

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

# OEIG'S REVIEW OF COMPLAINTS

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

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

# CONFIDENTIALITY OF INVESTIGATORY FILES

## **OEIG investigatory files are confidential.**

In most instances, they are exempt from disclosure under the Freedom of Information Act and are not to be disclosed to anyone, except as necessary to law enforcement, to the ultimate jurisdictional authority (for people taking this training, the Governor's Office), to the Executive Ethics Commission, or to another Inspector General. In his or her discretion, an Executive Inspector General may notify complainants and subjects of an investigation with an update on the status of the respective investigation, including when the investigation is opened and closed. 5 ILCS 430/20-90(c).

The identity of someone providing information or reporting possible or alleged misconduct to the OEIG shall be kept confidential. The identity may not be disclosed without that individual's consent, unless otherwise required by law.

Additional information explaining the legal limitations on the OEIG's ability to provide information to complainants and subjects of an investigation and a general overview of the investigation process is available on the OEIG's website.

# OEIG FOUNDED SUMMARY REPORTS

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

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

# OEIG FOUNDED SUMMARY REPORTS — EEC ACTION BASED ON REPORTS

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

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

# OEIG FOUNDED SUMMARY REPORTS — REPORTS MADE PUBLIC

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

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

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

# SUMMARY: OEIG

## **When to report?**

Within one year of the alleged wrongdoing.

## **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.

# SUMMARY: OEIG

## **Confidentiality/Anonymity?**

The OEIG accepts complaints from anonymous sources.

The identity of any person providing information or reporting any possible or alleged misconduct to the OEIG shall be kept confidential, unless the individual consents to disclosure of his or her name or disclosure is otherwise required by law. 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.

OEIG founded reports may be made public, but the EEC must redact certain information about complainants and witnesses.

# SUMMARY: OEIG

## **What outcomes are possible with a complaint or allegation made to the OEIG?**

- The harasser/wrongdoer may be subject to a fine.
- A victim does not receive compensation from the harasser. The OEIG and EEC cannot require a harasser to pay the victim money. Any money from a fine does not go to the victim or to the person who reported the conduct.
- The harasser may be disciplined, up to and including termination.
- The State agency may take other remedial action. For example, an agency may change its processes or require additional training on an issue.
- The OEIG may refer some types of conduct to other bodies for investigation and possible prosecution, such as some types of criminal activity.



# ILLINOIS DEPARTMENT OF HUMAN RIGHTS

# ILLINOIS DEPARTMENT OF HUMAN RIGHTS

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

The Illinois Human Rights Act prohibits sexual harassment in employment, and it is a civil rights violation “[f]or any employer, employee, agent of any employer, employment agency or labor organization to engage in sexual harassment.” 775 ILCS 5/2-102(D).

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

# ILLINOIS DEPARTMENT OF HUMAN RIGHTS

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

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

# ILLINOIS DEPARTMENT OF HUMAN RIGHTS

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

After IDHR issues its finding:

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

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

# ILLINOIS DEPARTMENT OF HUMAN RIGHTS

If a complainant wins in court or at the HRC, the judge or the HRC can order remedies allowed by the Illinois Human Rights Act to make the complainant “whole.” These remedies may include back pay, lost benefits, clearing of a personnel file, damages, hiring, promotion, reinstatement, front pay where reinstatement is not possible, and attorney’s fees and costs.

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

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

## TIMING MATTERS!

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

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

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

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

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

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

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

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

IDHR has offices at:

## **Chicago**

James R. Thompson Center. 100 W. Randolph St. 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.

# DEPARTMENT OF HUMAN RIGHTS HELPLINE

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

Through the helpline:

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

# DEPARTMENT OF HUMAN RIGHTS HELPLINE

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

More information about the helpline is available at:

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

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

# SUMMARY: IDHR

## **When to report?**

Must file a charge within 300 days of the incident.

## **Confidentiality/Anonymity?**

No. The formal IDHR complaint, or charge, process is not an anonymous process.

The person or entity accused of harassment (known as the respondent) will be made aware of your identity and your allegations.

At the end of an investigation, the investigation report and parts of the investigative file may be accessible to the public.

# SUMMARY: IDHR

## **Your involvement in the process?**

The IDHR process first includes an investigation where you may be asked to provide testimony and evidence. 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 and action after an IDHR finding?**

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.

# SUMMARY: IDHR

## **Potential Investigative Results**

The victim of harassment may receive actual damages for any injury or loss, including being hired, reinstated, or upgraded, or provided benefits or back pay. There may also be an order to stop the unlawful conduct.

# REPORTING AN ALLEGATION OF SEXUAL HARASSMENT WITHIN YOUR AGENCY

To a supervisor or Ethics Officer

# REPORTING AN ALLEGATION OF SEXUAL HARASSMENT OR OTHER INAPPROPRIATE CONDUCT 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 or other behavior that is not appropriate for the workplace.

Your supervisor:

- Will know the internal practices of your agency, 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.

# REPORTING AN ALLEGATION TO YOUR SUPERVISOR

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

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

# REPORTING AN ALLEGATION OF SEXUAL HARASSMENT OR OTHER INAPPROPRIATE CONDUCT TO YOUR 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 giving guidance to State employees about the State Officials and Employees Ethics Act.

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

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

# REPORTING AN ALLEGATION TO YOUR ETHICS OFFICER

If you are not comfortable going to your supervisor and would like to have your allegation addressed through management action, your agency Ethics Officer can assist with directing your allegation to another supervisor or member of your agency's management who can address it instead of your supervisor.

In some agencies and in some circumstances, your Ethics Officer may be responsible for investigating the allegation himself or herself.

Your agency Equal Employment Opportunity Officer is another resource who may assist you in finding the right path for your complaint, or who may be part of the investigation process.

# REPORTING AN ALLEGATION OF SEXUAL HARASSMENT TO YOUR ETHICS OFFICER

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 take necessary action to address your allegation.

# HYPOTHETICAL #6

## Question

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

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

# HYPOTHETICAL #6

Answer

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

# HYPOTHETICAL #7

## Question

Continuing Hypothetical #6, D properly reported the email to the Ethics Officer and forwarded J's email to the agency's Ethics Officer. The Ethics Officer meets with D and explains additional options for reporting.

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

Where else could D report to meet these goals?

- A) J'S SUPERVISOR
- B) OFFICE OF THE EXECUTIVE INSPECTOR GENERAL (OEIG)
- C) THE ILLINOIS DEPARTMENT OF HUMAN RIGHTS (IDHR)
- D) A AND B

# HYPOTHETICAL #7

Answer

D. J's supervisor and the OEIG.

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

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



# **WHISTLE BLOWER PROTECTION AND COOPERATION WITH INVESTIGATIONS**

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

# WHISTLE BLOWER PROTECTION

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

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

# WHISTLE BLOWER PROTECTION

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

# WHISTLE BLOWER PROTECTION

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

# WHISTLE BLOWER PROTECTION

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

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

# COOPERATION WITH INVESTIGATIONS

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

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

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

Failure to cooperate with an investigation of the Executive Inspector General . . . is grounds for **disciplinary action, including dismissal**. 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.



# PENALTIES

# PENALTIES

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

# PENALTIES FOR SEXUAL HARASSMENT

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

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

# PENALTIES FOR FALSE REPORTS

**False reports are prohibited.**

- The EEC may levy a fine of up to \$5,000 against any person who intentionally makes a false, frivolous, or bad faith allegation.
- Any person who intentionally makes a false report alleging sexual harassment to the OEIG, EEC, or to certain law enforcement agencies or officials is guilty of a misdemeanor.

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

- The EEC may levy a fine of up to \$5,000 against any person who intentionally obstructs or interferes with an investigation conducted under the Ethics Act by the OEIG.
- Failure to cooperate with an investigation conducted under the Ethics Act by the OEIG, including intentional omissions and knowing false statements, is grounds for disciplinary action, including dismissal.

# HYPOTHETICAL #8

## Question

S supervises P, Q, and Z at an agency. Z asked P out on a date, and P said no. Z keeps asking. P told Z many times that the answer was no and to stop asking.

Q sits nearby and saw this happening. Q asked S to help put a stop to it, but S thought it was funny and told Q to lighten up. Q then reported it to the agency's Ethics Officer and the OEIG.

The OEIG interviewed P. P told the investigator that Z had never asked P out. The OEIG interviewed Q, who described times that Z asked P out and that P told Z to stop asking.

S found out about the interviews. S thought Q shouldn't have reported the date requests to the OEIG and shouldn't have done an interview. S transferred Q to a different section.

Whose conduct did not violate the Ethics Act, Human Rights Act, and/or Whistleblower Act and would not be disciplined, terminated, and/or fined?

- A) P, WHO LIED TO THE INVESTIGATOR.
- B) Q, WHO DID NOT HAVE P'S PERMISSION TO REPORT TO THE OEIG AND ETHICS OFFICER.
- C) S, WHO TRANSFERRED Q FOR MAKING A COMPLAINT AND COOPERATING WITH THE OEIG'S INTERVIEW.
- D) Z, WHO WOULD NOT STOP ASKING P OUT AFTER BEING TOLD NO.

# HYPOTHETICAL #8

## Answer

B. Q, who did not have P's permission to report to the OEIG and Ethics Officer and who cooperated in an OEIG interview. A witness to sexual harassment does not require permission to report to the OEIG or an Ethics Officer, and all employees must cooperate with an OEIG interview.

All of the others have violated the Ethics Act, Human Rights Act, and/or Whistleblower Act.

- P's lies in the interview violated the Ethics Act. The Ethics Act requires all employees to be truthful in interviews and to cooperate with investigations.
- S retaliated against Q by transferring Q for making a complaint and cooperating in an OEIG interview.
- Z repeatedly asked P out after being told no. Remember, a hostile work environment occurs when conduct (1) is sexual in nature; (2) is unwelcome; and (3) is intended to or does: (A) substantially interfere with work performance or (B) create an intimidating, hostile or offensive working environment.

# COMPLETION & CERTIFICATION

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

Next, you must sign a certificate to certify your completion of the annual training requirement. The certificate can be found on the final page of this packet and must be returned to your Ethics Officer or his or her designee.

If you have questions about sexual harassment or the content of this training, your Ethics Officer is a resource who can provide you with more information.

You can find your agency Ethics Officer's contact information at <https://www2.illinois.gov/oeig/ethics/Pages/EthicsOfficers.aspx>.



STATE OF ILLINOIS

**Acknowledgement of Participation in:**

**2018 Sexual Harassment Prevention Training for State Employees and Officials**

By my signature below, I certify that I have carefully reviewed the content of the “2018 Sexual Harassment Training for State of Illinois Employees under the Jurisdiction of the Governor.” I either carefully read and reviewed these materials myself, or I reviewed the materials as part of a training session on the contents of the training materials with my Ethics Officer or a designee of the Ethics Officer. 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 State employment/appointment, administrative fines, and possible criminal prosecution, depending on the nature of the violation.

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Signature

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Printed Name (First, Middle Initial, Last)

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Agency, Board, Commission, or Other State Entity  
by which you are employed or of which you are a member

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Date of Completion

To document that you completed the annual training requirement, you must return a signed copy of this form to your Ethics Officer, or return it to a person at your agency, board, or commission that has been designated to collect completed training certificates. A list of Ethics Officers and their contact information can be found at <https://www2.illinois.gov/oeig/ethics/Pages/EthicsOfficers.aspx>.