



**pace**  
Connecting Communities

## 2021 Harassment and Discrimination Prevention Training for Pace Employees

**Note:** This training course has been developed in accordance with the requirements of the State Officials and Employees Ethics Act (5 ILCS 430/5-10.5). It has been developed for this purpose under the direction of the Board of Directors of the Pace. Not for use by other than employees, appointees, or officials Pace without the express consent of the Office of Executive Inspector General for the Agencies of the Illinois Governor.

If you need reasonable assistance to read, review and sign this harassment and discrimination prevention training, please contact the Ethics Officer at 847.228.2365.

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## Introduction/General Principles

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

All Pace employees are subject to the Ethics Act, which is intended to ensure that government operations are conducted with fairness, honesty, and integrity. The Ethics Act requires that: **“All persons have a right to work in an environment free from sexual harassment. All persons subject to this Act are prohibited from sexually harassing any person, regardless of any employment relationship or lack thereof.”** 5 ILCS 430/5-65(a) (emphasis added).

Pace maintains a working environment for all Pace employees to be free from sexual harassment. Pace has *zero* tolerance for sexual harassment. Please see Employee Handbook at Section 1.30. Employees who believe they have been subjected to or witness sexual harassment should report it immediately to their supervisor, Pace’s EEO Officer, Pace’s Ethics Officer, or to Human Resources, or through the alternative reporting channels set forth below, such as the Office of Executive Inspector General (OEIG) or Illinois Department of Human Rights (IDHR).

The Ethics Act requires that all Pace employees be aware that they are also prohibited from engaging in harassment or discrimination as defined by the Illinois Human Rights Act. Specifically, they should know that the Illinois Human Rights Act forbids discrimination and harassment on the basis of someone’s actual or perceived membership in one or more of the following protected classes:

- Age
- Citizenship Status
- Disability
- Military Status
- Order of Protection Status
- Race
- Sex
- Unfavorable Discharge from Military Service
- Ancestry
- Color
- Marital Status
- National Origin
- Pregnancy
- Religion
- Sexual Orientation

The Illinois Human Rights Act also prohibits other discriminatory acts in employment, including:

- prohibiting employees from speaking their native language, when unrelated to work duties;
- certain immigration-related practices;
- imposing conditions that would require an employee to violate a sincerely-held religious practice;
- failure to offer employees reasonable accommodations related to pregnancy or childbirth; and
- discrimination based on age in training and apprenticeship programs.

775 ILCS 5/2-102.

Similarly, Pace has zero tolerance and expressly prohibits unlawful discrimination and harassment. See HR-21, "Harassment Policy".

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

Pace acknowledges that coming forward regarding sexual harassment, discrimination, or harassment allegations can seem overwhelming. That is why Pace has a process in place to handle these allegations. In response to every complaint, Pace investigates promptly and thoroughly. Pace assures its employees that there is no retaliation against any employee filing a harassment, discrimination, or sexual harassment complaint, or against any employee who cooperates with a Pace investigation, and there are policies and laws that prohibit retaliation. If allegations of improper harassment are substantiated, Pace commits to taking the appropriate action, including disciplinary measures up to and including termination.

## What is Sexual Harassment?

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Sexual harassment means *any unwelcome sexual advances, requests for sexual favors, or any conduct of a sexual nature* when:

- (1) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
- (2) Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
- (3) Such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

*For purposes of this definition, the phrase "working environment" is not limited to a physical location where an employee is assigned to perform his or her duties and does not require an employment relationship. See 5 ILCS 430/5-65(b).*

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

## Types of Sexual Harassment

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### Quid Pro Quo Sexual Harassment

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

- Actual or attempted rape or sexual assault
- Pressure for sexual favors
- Deliberate touching, leaning over, or cornering
- Sexual looks or gestures
- Letters, telephone calls, personal e-mails, texts, or other materials of a sexual nature
- Pressure for dates
- Sexual teasing, jokes, remarks, or questions
- Referring to an adult as a “girl,” “hunk,” “doll,” “babe,” or “honey,” or other diminutive term
- Whistling at someone
- Sexual comments, innuendos, or 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
- Talking about, 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, websites, or magazines displayed in the workplace or shown to someone
- Playing sexually suggestive or graphic videos or music
- Making sexual gestures with hands or through body movements

Sexual harassment can involve activities online or through electronic media, even when off-site or “off the clock.” Examples of behaviors that can constitute unwelcome sexual conduct through email, cell phone or text, internet or intranet posting, online comments, blog posts, social media (such as Facebook, Twitter, LinkedIn, Instagram, YouTube, and Snapchat), or other electronic media include:

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

### **Review Question # 1**

Robert is a manager and is interviewing candidates for a supervisory position in his department. He interviews Stephanie, who is highly qualified. Robert is attracted to Stephanie, and tells her during the interview that he will offer her the job, but only if she agrees to go out on dates with him at least once per week. Robert tells Stephanie that the purpose of the dates is both to talk about work “away from the distractions at the office,” and also to “get to know each other on an intimate level.” Stephanie is not interested in getting to know Robert on an intimate level, but she accepts the job offer anyway because she really needs the money. Is this sexual harassment?

- Yes, this is an example of *quid pro quo* sexual harassment.
- No, because Stephanie agreed to go on the dates in order to get the job, so it was basically her fault.
- No, because Robert dates had a dual purpose, one of which was to discuss work issues.

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

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<sup>1</sup> The best response to Review Question # 1 is A. *Quid pro quo* sexual harassment occurs when submission to unwelcome sexual advances, requests for sexual favors, or conduct of a sexual

## Review Question # 2

Thomas and Ursula are co-workers in the same department. Ursula has a crush on Thomas, and she spends a lot of time with him during breaks and lunch. Eventually, Ursula confides to Thomas that she finds him attractive. Ursula asks Thomas if he would be interested in going out on a romantic date with her. Thomas tells Ursula that he is flattered, but that he is gay, and is not interested in having a romantic relationship with Ursula. Ursula accepts Thomas' explanation and does not pursue a romantic relationship with Thomas. After being rejected by Thomas, however, Ursula's feelings are hurt and she no longer spends time with him during breaks and lunch. Thomas is upset that Ursula is no longer as friendly with him as she was before. Did Ursula engage in *quid pro quo* sexual harassment by asking Thomas out on a date when they worked in the same department?

- A. Yes, Ursula sexually harassed him by asking him out on a date when they were co-workers in the same department.
- B. No, a straight woman cannot sexually harass a gay man.
- C. No, because Ursula has not affected the terms and conditions of Thomas' employment.

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

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nature is made, either explicitly or implicitly, a term or condition of employment; or when submission to or rejection of unwelcome sexual advances, requests for sexual favors, or conduct of a sexual nature is used as the basis for employment decisions. Here, Robert told Stephanie he would hire her only if she agreed to go on intimate dates with him. Answer B is incorrect because Stephanie's response to Robert does not change the fact that he would not hire her unless she accepted his unwelcome sexual advances of going out on dates with him. Answer C is incorrect because even though there is a work aspect involved, that does not change the fact that Robert would not hire Stephanie unless she agreed to spend time with him to get to know him on an intimate level.

<sup>2</sup> The best response to Review Question # 2 is C. Here, Ursula is a co-worker, not a supervisor, and she has not conditioned any terms or conditions of Thomas' employment on his willingness to date her. There is no evidence that Ursula did anything more than ask Thomas out on one date when they were co-workers, and there is no evidence of any *quid pro quo* sexual harassment. Answer A is incorrect because Thomas and Ursula were co-workers when she asked him out, and Ursula did not (and likely did not have the power to) condition any terms of Thomas' employment on his agreement to date her. Answer B is incorrect. Had Ursula been Thomas' supervisor, and had she conditioned any terms and conditions of his employment on his agreement to date her, the conduct might still have constituted *quid pro quo* sexual

## Hostile Work Environment Sexual Harassment

Hostile work environment occurs when unwelcome sexual advances, requests for sexual favors, or any conduct of a sexual nature has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment. To be a hostile work environment, the sexually inappropriate conduct must be severe *or* pervasive.

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

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

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

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

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harassment. A straight person could engage in *quid pro quo* sexual harassment if they condition terms of employment on acceptance of unwanted sexual conduct, whether the target of the conduct is gay or straight.

### Review Question # 3

Wayne is polite and professional with all coworkers and has never made a sexually explicit comment or statement at work. However, Wayne's desk is in a high-traffic area of the office, and every day during the authorized lunch period, Wayne views sexually suggestive YouTube videos with scantily clad individuals. In order to avoid disturbing his coworkers, he puts on headphones so that they cannot hear any of the music or dialogue involved in the videos. Coworkers nonetheless reported the conduct to Violet, Wayne's supervisor, and explained that they felt uncomfortable walking past Wayne's desk for fear of seeing offensive images on his computer screen. They told Violet that they avoid the area as much as possible, and avoid talking with fellow employees whose desks are near Wayne's desk. The employees who work near Wayne's desk reported that they often tried to find reasons to be away from their desks during Wayne's lunch period, which impacts their work performance. Is Wayne creating a hostile work environment?

- A. No, because Wayne is being considerate of his coworkers by wearing headphones and if they find the images offensive, they should be able to avert their gaze when they walk past his desk.
- B. Yes, because Wayne's conduct has the effect of substantially interfering with his coworkers' work performance and has created an offensive working environment.
- C. No, because Wayne is polite and professional with his coworkers and never made sexually explicit comments or statements at work.

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

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<sup>3</sup> Answer B is the best response. Hostile work environment sexual harassment occurs when such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment. Here, Wayne's coworkers routinely avoid other employees near Wayne's desk because they do not want to be exposed to the content Wayne is viewing. Wayne's conduct is offensive to at least some employees and it has the effect of substantially interfering with their work performance because they are not comfortable being in their work area during certain times. Even though Wayne did not intend to create this hostile work environment and used headphones, his conduct had the effect of substantially interfering with his coworkers' work performance. Answer A is incorrect because Ben's conduct is offensive even if he is wearing headphones. His coworkers would still be exposed to offensive images. Answer C is incorrect because Ben's conduct creates a hostile work environment even if he is otherwise polite and considerate in other contexts.

#### Review Question # 4

Xavier and Yvette are coworkers. Xavier, Yvette, and other coworkers go out for drinks after work, and while out, Xavier inappropriately touches Yvette on several occasions. Yvette leaves the gathering after repeatedly telling Xavier to “stop” and that she is “not interested.” Xavier is angry and embarrassed by Yvette’s behavior, which was witnessed by the coworkers. He creates a fake Facebook page in Yvette’s name and purports to reveal intimate but false details about Yvette’s sexual activities, suggesting that Yvette has many sexual partners. Later, Xavier tells Yvette’s coworkers to look at the Facebook page, although he does not admit that he is the author of the false entries. The coworkers begin asking Yvette questions about some of the disclosures, and Yvette becomes aware of the Facebook page. Yvette is highly embarrassed. Yvette believes that Xavier is the source of the material, and she tells him to remove the page. Xavier denies any involvement. Xavier continues to add false content over several weeks. Yvette has a difficult time working in the office environment due to the rumors created by the false content and her coworkers’ response to those rumors. Eventually, Xavier decides to delete the false Facebook page, thinking that Yvette “has learned her lesson.” He admits to Yvette that he was the source of the false rumors but that he has taken down the fake Facebook page and asks for her forgiveness. Has Xavier created a hostile work environment?

- A. Yes, Xavier’s creation of a fake Facebook page that spread false sexual rumors about Yvette created a hostile work environment.
- B. No, because Xavier took down the fake Facebook page and asked for forgiveness, so any harm was ultimately removed.
- C. No, because Yvette did not know that Xavier was the creator of the fake Facebook page until after the harm was done.

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

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<sup>4</sup> The best response to Review Question # 4 is A. A hostile work environment occurs when conduct of a sexual nature has the purpose or effect of substantially interfering with an individual’s work performance or creating an intimidating, hostile, or offensive working environment. Here, Xavier created a fake Facebook page that purported to reveal intimate details about Yvette’s private life. Xavier’s actions were unwanted, sexual in nature, and created an intimidating work environment. Answer B is incorrect because Xavier’s actions created harm before he removed the fake Facebook page. Answer C is incorrect because Xavier’s conduct in disseminating false information about Yvette created harm, regardless of whether Xavier admitted his involvement to Yvette or not.

### Review Question # 5

Zack is employed by a Pace vendor. He visits a Pace worksite several times a week. Annette works at Pace and interacts with Zack as part of her job duties. Zack always flirts with Annette by complimenting her body and asking for dates. Annette always declined Zack's requests and told Zack that she is not interested. Zack's conduct has been going on for over a month, and it has caused Annette to miss an important call because Zack was in the workplace at the time of the call and Annette was trying to avoid him. Annette complains to her supervisor about Zack's conduct, but nothing has been done to stop it. Annette suspects that her supervisor does not want to rock the boat and endanger the good working relationship Pace has with Zack's employer. Can Pace be held legally responsible for Zack's actions?

- A. No, because Zack is employed by a vendor, not Pace, and therefore Pace is not responsible for Zack's independent actions regarding a Pace employee.
- B. No, because Annette cannot put Pace's relationship with a vendor in jeopardy over a personality conflict with Zack, the vendor's employee.
- C. Yes, because Zack is the employee of a Pace vendor and this relationship is covered under the Illinois Human Rights Act.

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

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<sup>5</sup> The best response to Review Question # 5 is C. The Illinois Human Rights Act says that an employer is responsible for the harassment by nonemployees if the employer is aware of the conduct and fails to take reasonable corrective measures. Here, Zack repeatedly pressured Annette into dating him, despite her refusals, which is a type of sexual harassment that contributes to a hostile work environment. Annette complained to her supervisor at Pace, but Pace did nothing to stop the harassment. Answer A is incorrect because Pace knew of Zack's behavior and did nothing to correct it. Answer B is incorrect because the Illinois Human Rights Act protects employees from harassment by nonemployees, such as employees of vendors and contractors.

## What is Discrimination and Harassment?

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Under the Illinois Human Rights Act, "unlawful discrimination" is discrimination against a person because of his or her actual or perceived: race, color, religion, national origin, ancestry, age, sex, marital status, order of protection status, disability, military status, sexual orientation, pregnancy, or unfavorable discharge from military service. 775 ILCS 5/1-03(Q). *Unlawful Discrimination* occurs when an employer takes actions regarding hiring or employment because of a candidate's or employee's membership(s) in those groups or their protected categories.

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

<b>Marital Status.</b> The legal status of being married, single, separated, divorced, or widowed. <i>Id.</i> at §1-103(J).	<b>Sex.</b> The status of being male or female. <i>Id.</i> at §1-103(O).	<b>National Origin.</b> The place in which a person or one of his or her ancestors was born. <i>Id.</i> at §1-103(K).
<b>Order of Protection Status.</b> A person's status as being a person protected under an order of protection issued pursuant to certain statutes, or an order of protection issued by a court of another state. <i>Id.</i> at §1-103(K-5).	<b>Age.</b> The chronological age of a person who is at least 40 years old. In the case of training and apprenticeship programs, age means a person who is 18 but not yet 40 years old. <i>Id.</i> at §1-103(A).	<b>Pregnancy.</b> Pregnancy, childbirth, or medical or common conditions related to pregnancy or childbirth. <i>Id.</i> at §1-103(L-5).
<b>Religion.</b> All aspects of religious observance and practice, as well as belief, unless an employer demonstrates that he or she is unable to reasonably accommodate an employee's or prospective employee's religious observance or practice without undue hardship on the conduct of the employer's business. <i>Id.</i> at §2-101(F).	<b>Unfavorable Military Discharge.</b> Discharges from the Armed Forces of the U.S, their Reserve components, or any National Guard or Naval Militia which are classified as RE-3 or the equivalent, but does not include those characterized as RE-4 or "Dishonorable." <i>Id.</i> at §1-103(P).	<b>Sexual Orientation.</b> The actual or perceived heterosexuality, homosexuality, bisexuality, or gender-related identity, whether or not traditionally associated with the person's designated sex at birth. <i>Id.</i> at §1-103(O-1).
<b>Military Status.</b> A person's status on active duty in or status as a veteran of the armed forces of the U.S., status as a current member or veteran of any reserve component of the armed forces of the U.S., or status as a current member or veteran of the Illinois Army National Guard or Illinois Air National Guard. <i>Id.</i> at §1-103(J-1).	<b>Disability.</b> A determinable physical or mental characteristic of a person, including one that necessitates the person's use of a guide, hearing or support dog, the history of such characteristic, or the perception of such characteristic by the person complained against, which may result from disease, injury, congenital condition of birth or functional disorder and which characteristic is unrelated to the person's ability to perform the duties of a particular job or position. <i>Id.</i> at §1-103(I).	<b>Citizenship Status.</b> The status of being: (1) a born U.S. citizen; (2) a naturalized U.S. citizen; (3) a U.S. national; or (4) a person born outside the U.S. and not a U.S. citizen who is not an unauthorized alien and who is protected from discrimination under a federal law. <i>Id.</i> at §2-101(K).

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

### Unlawful Discrimination is a Civil Rights Violation

It is a civil rights violation for “any employer to refuse to hire, to segregate, to engage in harassment . . . or to act with respect to recruitment, hiring, promotion, renewal of employment, selection for training or apprenticeship, discharge, discipline, tenure or terms, privileges or conditions of employment on the basis of unlawful discrimination or citizenship status.” 775 ILCS 5/2-102(A). Employment agencies and labor organizations are also prohibited from certain conduct on the basis of unlawful discrimination or citizenship status. *Id.* at §5/2-102(B) and (C).

### Other Civil Rights Violations Involving Unlawful Discrimination

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

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

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

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

**Reasonable accommodation for pregnancy.** The Human Rights Act outlines reasonable accommodations that are afforded to individuals related to pregnancy or childbirth. It is a civil

rights violation for an employer not to make a reasonable accommodation for any medical or common condition of a job applicant or employee related to pregnancy or childbirth, unless the employer can demonstrate that it would impose an undue hardship on the ordinary operation of the business. *Id.* at §2-102(J). It is also unlawful for an employer to require a job applicant or employee to accept an accommodation when that individual did not request one. *Id.* An employer may not require an employee to take leave, if another reasonable accommodation can be provided. *Id.* An employer shall reinstate the employee to her original job or equivalent position upon her signifying her intent to return or when the need for the reasonable accommodation ends, unless the employer demonstrates that the accommodation would impose an undue hardship on the ordinary operation of the business. *Id.* Further, an employer may not deny employment opportunities or benefits or take adverse action because an individual needs a reasonable accommodation. *Id.*

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

*Examples of unlawful discrimination:*

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

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

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

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

action for another reason unrelated to an applicant's or employee's membership in a protected class.

### What Is Harassment?

**“Harassment”** means: “any unwelcome conduct on the basis of an individual's actual or perceived race, color, religion, national origin, ancestry, age, sex, marital status, order of protection status, disability, military status, sexual orientation, pregnancy, unfavorable discharge from military service, or citizenship status that has the purpose or effect of substantially interfering with the individual's work performance or creating an intimidating, hostile, or offensive working environment. For purposes of this definition, the phrase "working environment" is not limited to a physical location an employee is assigned to perform his or her duties.” 775 ILCS 5/2-101(E-1).

Example of harassment:

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

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

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

### Review Question # 6

Caroline's employer recently reorganized one of its offices and eliminated certain positions. Caroline, who is a white female, filled one of the positions that was eliminated and thus was laid off. Twelve months later, the employer posted for a position very similar to the one that Caroline had earlier held. Caroline applied for this position, but the employer selected Brad, a current employee who held a similar position in a different department and was seeking a lateral move within the company. Brad is a white male. Both candidates know how to perform all of the job functions of the position. However, Brad had very positive reviews from his current supervisor and was never tardy or missed deadlines, while Caroline's former supervisor did not give her positive reviews and reported that she was often tardy and had failed to meet one or two deadlines in her work. Was Caroline discriminated against on the basis of her sex?

- A. Yes, when the employer selected a white male instead of a white female, both of whom had held similar positions, the employer engaged in sex discrimination by preferring the male over the female candidate.
- B. No, because Brad was the most qualified for the position.
- C. Yes, Caroline's former supervisor's remarks should have been ignored because they were minor faults that did not rise to the level of serious infractions.

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

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<sup>7</sup> The best response to Review Question # 6 is B. The employer did not engage in sex discrimination when it hired the most qualified candidate for the position, and here the facts showed that Brad was better qualified than Caroline based on their prior work records. Caroline was not eliminated because of her sex, but because her prior work record showed tardiness and failure to meet work deadlines. Therefore answers A and C are incorrect.

### Review Question # 7

Devon is a full-time employee but also is a member of the Illinois Army National Guard. As part of his National Guard duties, he attends training for two weeks during the summer and one weekend each month. At his full-time job, Devon often leaves work early, takes longer lunch breaks than allowed, and engages in lengthy personal telephone calls during the workday. In addition, Devon often fails to complete assignments on time. Devon's supervisor, Eva, places Devon on "probation" and requires Devon to check in with her when arriving, taking his lunch break, and leaving at the end of the day. Devon believes that these actions are unlawful discrimination based on his membership in the Illinois National Guard because no one else in his department is a member of the Illinois National Guard, and no one else in his department is on a similar "probation." Is Devon being subjected to illegal discrimination based on his membership in the Illinois National Guard?

- A. No, because Devon's supervisor did not place him on "probation" due to his membership in the Illinois National Guard, but rather based on his poor work performance.
- B. Yes, military status is a protected class and he is being treated differently than others who do not have protected military status.
- C. No, because an employer is permitted to discriminate against service in the Illinois National Guard where, like here, the service requires lengthy training commitments during the summer and on weekends.

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

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<sup>8</sup> The best response to Review Question # 7 is A. Unlawful discrimination occurs when an employer takes discriminatory employment action because of an employee's membership in one of the protected classes. However, it does not prevent an employer from taking employment action for another reason unrelated to the employee's membership in a protected class. Devon's job performance caused him to be placed on "probation," not his membership in the Illinois National Guard. Answer B is incorrect because military status is a protected class, but Devon's treatment was not based on that status. Answer C is incorrect because an employer is not permitted to discriminate on the basis of membership in the military, which is a protected class, regardless of its training requirements.

### Review Question # 8

Faye told her supervisor, George, that she is pregnant and due to give birth in about seven months. The following week, Faye asked George for time off to attend a doctor's appointment. Three weeks later, Faye had a second doctor's appointment and requested time off work again. George was worried about Faye's health and did not want her to experience any difficulties in balancing her work hours and having a safe pregnancy. George met with Faye and told her that he had decided to make her position part-time because of Faye's "condition." George said this would be good for Faye because now she could focus on her doctor's appointments and her health and not have to worry about working so many hours, which could be putting undue stress on her pregnancy. George stated that he would divide up Faye's work and ask other employees in the department to "pitch in" and that they would be short-handed but that they would "make do" until Faye returned from maternity leave. Faye is very upset by this because she wanted to continue working full-time, and she never told George that she wanted fewer hours. Is Faye being discriminated against on the basis of her pregnancy?

- A. No, as her manager, George is entitled to unilaterally alter his subordinates' work schedules in order to meet the needs of his department.
- B. No, because George's actions were motivated by his concern for Faye's health and the health of her unborn child, and he did not intend to discriminate against her in any way.
- C. Yes, George's conduct in unilaterally changing Faye's work hours constituted unlawful discrimination on the basis of pregnancy.

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

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<sup>9</sup> The best response to Review Question # 8 is C. The Illinois Human Rights Act protects individuals from discrimination on the basis of pregnancy. In this case, George changed the terms and conditions of Faye's employment based on her pregnancy. Answer A is incorrect because George was changing Faye's work schedule due to her pregnancy, not in order to meet the needs of his department. In fact, the department appears to have been ill-served by Faye's change to part-time employment because Faye's fellow employees had fill in for her and "make do" until she returned to full-time work. Answer B is incorrect because George's motivation was based on Faye's status as a pregnant woman.

## How to Report Sexual Harassment, Harassment, Discrimination, and/or Retaliation

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

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

Where the person being harassed cannot report the incident to his/her direct supervisor (the employee may be uncomfortable discussing with the supervisor, or the supervisor may even be the harasser), the employee may report the incident to Pace's EEO Officer at 847.228.2310 or marion.roglich@pacebus.com. Complaints may also be reported to Pace's Ethics Officer at 847.228.2365 or james.caronis@pacebus.com.

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

The intentional filing of a false harassment claim is a violation of Pace's EEO Policy and Pace's Harassment Policy (HR-21). An employee who files a false sexual harassment, harassment, or discrimination claim is subject to disciplinary action, up to and including termination.

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

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

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

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

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

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

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

### Review Question # 9

Isabel and Hal share an office workspace. Hal likes to listen to music during office hours, but Isabel thinks the music is too loud, and she politely asks Hal to turn the music down. Hal turns the music down whenever Isabel asks, but as soon as Isabel leaves the work area, he turns it back up and leaves it at the higher volume until Isabel specifically asks him, again, to turn the music down. Isabel has complained to their supervisor about the music, and about Hal’s passive-aggressive conduct in turning down the music only if Isabel specifically asks him to do so. Isabel told the supervisor that the music interferes with her concentration and her work productivity, and that Hal’s conduct in requiring Isabel to repeatedly ask him to turn the music down is highly aggravating. Does Hal’s conduct constitute hostile work environment sexual harassment?

- A. Yes, playing loud music in a shared workspace constitutes the type of harassment that violates the Illinois Human Rights Act.
- B. No, while playing the radio may be offensive to Isabel, and Hal’s conduct toward her may be petty, this conduct would not be considered sexual harassment because there is no sexual component involved in Hal’s conduct.
- C. Yes, because Hal is male, and Isabel is female, and Hal’s behavior is extremely inconsiderate toward her, and that is sufficient to constitute sexual harassment.

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

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<sup>10</sup> Answer B is correct. The Illinois Human Rights Act does not protect employees from being subject to loud music in a shared workspace. There is no sexual component to Hal’s conduct as it relates to Isabel, so it does not constitute sexual harassment. Although these actions do not violate the Illinois Human Rights Act, the actions may violate other Pace policies, and Isabel’s supervisor should address the issue. Answer A is incorrect due to the lack of a sexual

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

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

### ***Sexual Harassment in Violation of the Ethics Act***

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

- May be fined up to \$5,000 per offense by the Executive Ethics Commission;
- Is subject to discipline and/or termination by Pace; and
- May also have fines or penalties imposed by a State or federal agency or court (such as if a charge was filed with the IDHR or in court, and the IDHR or a court determined that improper harassment occurred). See 5 ILCS 430/50-5(g)

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

The Executive Ethics Commission (“EEC”) may levy a fine of up to \$5,000 against any person who intentionally makes a false, frivolous, or bad faith allegation. 5 ILCS 430/50-5(e). Further, any person who intentionally makes a false report alleging sexual harassment to the OEIG, EEC, or to certain law enforcement agencies or officials is guilty of a misdemeanor. 5 ILCS 430/50-5(d). Similarly, an employee who knowingly makes a false complaint violates Pace’s EEO Policy and Pace’s Harassment Policy, and is subject to discipline, up to and including termination.

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component in the conduct. Answer C is incorrect because not all inconsiderate behavior is a violation of the Illinois Human Rights Act.

### Review Question # 10

Kyle is supervised by Joanne, and he has observed that department morale has plummeted since Joanne was promoted. Kyle has heard rumors that Joanne has dated subordinates in the department, and that many employees were opposed to Joanne being offered the supervisor position. Kyle does not know if the rumors about Joanne are true or not, but Kyle is worried about department morale, and he thinks he would make a better supervisor than Joanne. Kyle decides to file a claim with his EEO Officer, stating that he has personal knowledge that Joanne has had improper intimate relationships with subordinates in the department. Kyle hopes that Joanne will be fired or demoted so that he can apply for her old position and improve department morale. Kyle honestly believes that he will turn the department around if Joanne is replaced. Did Kyle's filing of a false report against Joanne violate Pace policies?

- A. Yes, Kyle violated Pace's Sexual Harassment Policy and EEO Policy, both of which prohibit filing a false harassment claim.
- B. No, because Kyle's goals were to improve the functioning of the department and he honestly believed that he would make a better supervisor than Joanne.
- C. No, because Joanne was a poor supervisor and she was responsible for her department's poor morale.

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

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<sup>11</sup> Answer A is correct because Kyle falsely stated that he had personal knowledge about Joanne's conduct. Pace's Sexual Harassment Policy and EEO Policy prohibit the filing of fraudulent sexual harassment claims. Filing a fraudulent claim may subject Jake to discipline, up to and including termination of employment. Answer B is incorrect because Kyle's honest belief in his own abilities does not excuse the fact that he filed a false report. Answer C is incorrect because filing a false report with the EEO Officer violates Pace's policies regardless of whether Joanne was performing her job duties adequately.

## Information About Retaliation

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

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

Under the Ethics Act, 5 ILCS 430/15-10, a Pace employee cannot take retaliatory action against a Pace employee who (1) reports allegations of sexual harassment, harassment, or discrimination, that the employee reasonably believes is a violation of law, rule, or regulation (2) provides information or testifies in connection with an investigation, hearing, or other inquiry into any violation of law, rule, or regulation or (3) participates in a proceeding to enforce the Ethics Act. If retaliatory action occurs, the OEIG can investigate this matter and recommend discipline. An employee can also bring a lawsuit pursuant to the Ethics Act. Anyone who intentionally violates this prohibition on retaliation is guilty of a misdemeanor and is subject to discipline or discharge. 5 ILCS 430/50-5(a), (f).

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

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

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

- Reinstatement of employment;
- Two times back pay;
- Interest on back pay;
- Reinstatement of fringe benefits and seniority rights; and
- Payment of reasonable costs and attorneys' fees.

### Review Question # 11

Maya is Levi's supervisor. Maya has spoken with Levi repeatedly about his absenteeism and spending work time away from his department talking with friends in other areas of the building. Levi has missed work deadlines, phone calls, and team meetings due to these absences. Maya has warned Levi that his work performance must change or he will be terminated. Levi is contacted by an EEO investigator about a complaint Naomi, another employee, filed against Maya. Maya is aware of the complaint, and she is aware that Levi is involved in the investigation. Levi believes that Maya is now prohibited from terminating him because he is involved in an EEO investigation involving Maya. Levi therefore continues to have unexplained absences, and he is away from the department many times for extended periods. He continues to miss deadlines and meetings. Maya informs Levi that his employment is terminated because he has not improved his conduct despite having several chances to do so. Did Maya improperly retaliate against Levi?

- A. Yes, because Naomi's complaint against Maya might be proven to be misconduct, and Levi is cooperating in that investigation.
- B. Yes, because Maya must refrain from disciplining any employee during the time there is a complaint pending against her in the EEO Department.
- C. No, because Maya (as a supervisor) has a right to discipline her staff for poor work performance.

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

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<sup>12</sup> The best response to this question is Answer C. Levi cannot be retaliated against for cooperating with an EEO investigation, but here Maya terminated him based on his work performance, not based on his involvement in an EEO investigation. In fact, before Levi participated in the EEO investigation, Maya warned Levi that if he did not improve his work performance he would be terminated. Answer A is incorrect because the fact that Levi is participating in the investigation is not the reason he was terminated. If Maya retaliated against Levi for his involvement with an EEO investigation, it would not matter if Naomi's complaint against Maya was proven or not. But here, she terminated him for poor work performance, not because of his involvement in the EEO investigation. Answer B is incorrect because, as a supervisor, Maya has the right to discipline an employee for misconduct and poor work performance even if there is a pending EEO investigation involving the supervisor.



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## Acknowledgement of Participation in:

### 2021 Harassment and Discrimination Prevention Training for Employees of Pace

I certify that I have carefully read and reviewed the content of, and completed, the 2021 Harassment and Discrimination Prevention Training for Employees of Pace. 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 Pace employment, administrative fines, and possible criminal prosecution, depending on the nature of the violation.

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Signature

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Printed Name  
(first, middle initial, last)

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Employee ID Number

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

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Date