2019 Sexual Harassment Training
For RTA 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 Regional Transportation Authority (“RTA”). Not for use by other than RTA employees, appointees, or officials without the express prior consent of the Office of Executive Inspector General for the Agencies of the Illinois Governor.

If you need reasonable accommodations to read, review, and sign this sexual harassment training, please contact the Ethics Officer at 312-913-3237.
Table of Contents

Introduction/General Principles 1
What is Sexual Harassment 2
Types of Sexual Harassment 2
  Quid Pro Quo 3
  Hostile Work Environment 8
RTA Policies and Procedures for Reporting Sexual Harassment 12
Other Ways to Report Sexual Harassment 12
Consequences for Violating the Prohibition on Sexual Harassment 15
Consequences for Knowingly Making a False Report of Sexual Harassment 15
Information About Retaliation 17
Acknowledgment of Participation in 2019 Sexual Harassment Training for RTA Employees 19
Introduction/General Principles

All state agencies, including the Regional Transit Boards, must establish a sexual harassment policy. The policy must include at a minimum: (i) a prohibition on sexual harassment; (ii) details on how an individual can report an allegation of sexual harassment, including options for making a confidential report to a supervisor, ethics officer, Inspector General, or the Department of Human Rights; (iii) a prohibition on retaliation for reporting sexual harassment allegations, 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 and the consequences for knowingly making a false report. 5 ILCS 430/5-5(c).

RTA maintains a working environment for all RTA employees to be free from sexual harassment. RTA has zero tolerance for sexual harassment. Please see RTA’s Sexual Harassment Policy, HR-01.07. Employees who believe they have been subjected to or witnesses sexual harassment should report it immediately to their supervisor, RTA’s EEO Officer, RTA’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).

Employees should not allow an inappropriate situation to continue by not reporting it, regardless of who is creating that situation. No employee at RTA 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.

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

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

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

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

Types of 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, including unwelcome physical acts, verbal conduct, or visuals, such as:

- Actual or attempted rape or sexual assault
- Pressure for sexual favors
- Deliberate touching, leaning over, or cornering
- Sexual looks or gestures
- Letters, telephone calls, personal e-mails, texts, or other materials if they include sexual content
- Pressure for dates
- Sexual teasing, jokes, remarks, or questions
- Referring to an adult as a “girl,” “hunk,” “doll,” or other diminutive term
- Whistling at someone
- Sexual comments, sexual innuendos, or sexual stories
- Turning work discussions to sexual topics
- Asking about sexual fantasies, preferences, or history
- Sexual comments about a person’s clothing, anatomy, or looks
- Kissing sounds, howling, and smacking lips
- Telling lies or spreading rumors about a person’s personal sex life
• Neck and/or shoulder massage
• Touching an employee’s clothing, hair, or body
• Hanging around a person uninvited
• Hugging or kissing
• Patting, stroking, or pinching
• Touching or rubbing oneself sexually in the presence of another person
• Standing close to or brushing up against a person
• Looking a person up and down
• Sexually suggestive posters, cartoons, or magazines displayed in the workplace or shown to someone
• Playing sexually suggestive or graphic videos or music
• Making sexual gestures with hands or through body movements

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

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

**Quid Pro Quo Sexual Harassment**

*Quid pro quo* sexual harassment occurs when (1) job benefits, including employment, promotion, salary increases, shift or work assignments, performance expectations, and other conditions of employment, are made contingent on the performance of sexual favors, unwelcome sexual advances, or conduct of a sexual nature, by an employee for an employer, supervisor, or agent of the employer who has the authority to make decisions about employment actions, or (2) the rejection of a sexual advance or request for sexual favors results in tangible employment detriment, or a loss of benefit of the kind described above.
Review Question # 1

Robert supervises Nick. One day at work, Robert tells Nick that he finds him very attractive. Robert tells Nick that unless he (Nick) agrees to certain sexual favors, Robert will demote Nick and reduce his pay. Is this sexual harassment?

A. No, Robert’s conduct is not sexual harassment because Nick can say no.

B. Yes, this is an example of quid pro quo sexual harassment.

C. No, because a man cannot sexually harass a man.

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

¹ The best response to Review Question # 1 is B. Quid pro quo sexual harassment occurs when submission to unwelcome sexual advances, requests for sexual favors, or conduct of a sexual nature is made, either explicitly or implicitly, a term or condition of employment; or when submission to or rejection of unwelcome sexual advances, requests for sexual favors, or conduct of a sexual nature is used as the basis for employment decisions. Here, Robert is engaging in quid pro quo sexual harassment because he is threatening to demote Nick and reduce his pay if sexual favors are not given. Answer A is incorrect because it is Robert’s actions that are at issue. Answer C is incorrect because sexual harassment can occur between anyone regardless of sex.
Review Question # 2

Rhonda supervises Carlos. Rhonda knows that Carlos really wants to work on a particular project since it would put him in line for a promotion. Rhonda tells Carlos that, if he agrees to go out on a date with her, she will make sure to give him the project. Is this sexual harassment?

A. Yes, because Rhonda offered Carlos a favorable assignment in exchange for a date, which is quid pro quo sexual harassment.

B. No, because Carlos is performing work he is required to do regardless.

C. No, because Rhonda is just asking for a “date” and this is not sexual in nature.

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

2 The best response to Review Question # 2 is A. In this case, a supervisor is engaging in quid pro quo sexual harassment because she is making a decision about assignments based on whether the employee will go out on a date with her. Answer B is incorrect because Rhonda is giving the favorable assignment with the expectation that Carlos will repay the favorable assignment with a date, which is a sexual in nature. Answer C is incorrect because a “date,” unlike a business meeting, is sexual in nature.
Review Question # 3

Karen is Susan’s supervisor. Susan submits a vacation request. Karen tells Susan that she will only approve the request if Susan will spend the night with her at a hotel room. Susan tells Karen that she is not interested in a relationship. Is this sexual harassment?

A. No, because women cannot sexually harass other women.

B. Yes, this is an example of *quid pro quo* sexual harassment.

C. No, because Susan told Karen she was not interested.

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

³ The best response to Review Question # 3 is B. Here, Karen is withholding a benefit (approval of leave time) in exchange for sexual favors. This is *quid pro quo* sexual harassment. Answer A is incorrect because sexual harassment can occur between people of the same sex. Answer C is incorrect. Just because Karen said “no” does not mean the sexual harassment did not occur. Regardless of interest, Karen’s proposition constitutes sexual harassment.
Review Question # 4

Monty is Beth’s supervisor. During the year, Beth missed several important deadlines, was repeatedly late for work, and spent excessive time talking to coworkers about non-RTA related business. Monty tells Beth that he will put her on a performance improvement plan, monitor her work for a month, and if her work performance improves, he will not move to terminate her. Is this sexual harassment?

A. Yes, because to keep her job, Beth must perform something for Monty.
B. Yes, because Monty is male and Beth is female.
C. No, because Monty’s performance improvement plan does not require Beth to do anything sexual in nature.

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

4 The best response to Review Question # 4 is C. As Beth’s supervisor, Monty may discipline his subordinate for rule violations and/or poor performance. Answer A is incorrect. Answer B is incorrect because the sex of the harasser is irrelevant.
Hostile Environment

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

There are many types of behaviors that can be harassing. Examples include using derogatory terms, insults, telling derogatory jokes, taunting, and intimidating actions. RTA prohibits harassing behavior by any person while engaged in RTA business.

While a person engaging in harassing behavior 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. Sometimes the harasser is harassing a person who has power over them. The harasser can even be a person who is not a RTA employee, such as a person delivering supplies to RTA or refilling vending machines, or a RTA vendor. Regardless of the source, RTA does not tolerate harassment.

To determine whether a hostile environment exists, RTA 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. RTA 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, persistent, or pervasive to have created a hostile work or learning environment.

Entities other than RTA can also receive allegations. Just because conduct does not rise to the level of a legal definition of “hostile work environment” does not mean it is acceptable behavior. In some cases, a single incident may be so severe as to create a hostile 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, persistent, or pervasive as to constitute a hostile work environment under the law. However, such behavior may violate RTA policy and in those cases, RTA acts to stop the offending behavior to promote a respectful environment. When RTA determines that a hostile environment exists, it takes steps reasonably calculated to stop the harassment and ensure it does not happen again. If you believe the conduct is inappropriate, make a complaint so that the conduct can be addressed.
Review Question # 5

Steve began making advances toward Yvonne a mere three days into his new job. After rejecting Steve’s actions and requests for a date, Yvonne started receiving suggestive email messages from Steve in her company account. When, a few weeks later, Steve started leaving little gifts on her desk, Yvonne sent an email to Steve making it clear that she is not interested in a personal relationship, and asking him to stop all of his advances toward her. Steve has refused to stop his conduct. Does Yvonne have any recourse?

A. No, because Steve and Yvonne are peers.
B. Yes, she can file a complaint, but only with RTA because that is where she works.
C. Yes, she can file a complaint with the EEO Officer, Ethics Officer, IDHR, EEOC, and/or OEIG. She can also speak to her supervisor about Steve’s conduct.

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

5 The best answer is C. Answer C is correct because any employee has the option to file a claim with the EEO Officer, the Ethics Officer, IDHR, EEOC, and/or the OEIG. 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. Answer A is incorrect because coworkers can cause hostile work environment sexual harassment; it does not need to be created by a supervisor. Answer B is incorrect because Yvonne can also report the incident to other entities, including IDHR, EEOC, and/or the OEIG.
Review Question # 6

Thomas and Peter are RTA employees who share the same workspace. To decorate the area, Peter put up several sexually suggestive pictures. While these pictures were not easily seen by anyone else, Thomas was offended. The next day, Thomas asked Peter to take them down, which Peter did that same day. Was this a hostile work environment?

A. No, because only Peter could see the pictures and not anyone else.
B. Yes, because the pictures were sexually suggestive.
C. No, because Peter stopped after Thomas asked.

Select the best answer(s) then compare your response to the explanation below.⁶

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⁶ The best response to Review Question # 6 is C. Here, Thomas was reasonably offended, and asked his coworker to stop, which Peter did immediately. Thomas may still report this conduct to his supervisor, Ethics Officer, EEO Officer, IDHR, EEOC, and/or OEIG. Answers A and B are both incorrect. The pictures may have been offensive, but because Peter took the decorations down after Thomas asked, the behavior did not continue over time, and therefore did not create a hostile work environment.
Review Question # 7

Geoff and Paul work next to each other. Paul has excessive (and bad smelling) flatulence that makes it difficult for Geoff to complete his work. Geoff asks Paul to be more respectful and excuse himself to the bathroom, but Paul refuses. Does Paul’s behavior create a hostile work environment?

A. No, although his behavior is offensive, it is not sexual in nature.

B. Yes, because Geoff is reasonably offended.

C. Yes, Geoff cannot complete his work due to Paul’s behavior.

Select the best answer(s) then compare your response to the explanation below. 

7 The best response to Review Question # 7 is A. Here, Paul’s behavior is offensive, persistent, and it prevents Geoff from completing his work. However, the offensive activity does not involve sexually inappropriate behavior. Although this disrespectful behavior may require manager or HR intervention, the behavior is not actionable as creating a hostile work environment for sexual harassment purposes. Although answers B and C are true statements, for the reasons above this behavior does not amount to sexual harassment.
RTA Policies and Procedures for Reporting Sexual Harassment

There are many ways an employee can address sexual harassment.

Sometimes an employee can resolve sexual harassment 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 RTA’s EEO Officer. Sexual harassment may also be reported to RTA’s Ethics Officer, Michael Zumach, at 312-913-3237 or zumachm@RTAchicago.com.

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

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

Other Ways to Report Sexual Harassment

Employees who believe they are victims of sexual harassment have specific rights under the Illinois Human Rights Act. An employee has the right to file a charge of harassment 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., 10th 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/FilingaCharge/Pages/default.aspx
At any time employees may file a complaint with the Office of Executive Inspector General of the State of Illinois. To file a complaint with the OEIG, please use one of the following means:

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

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

Office of Executive Inspector General
Attn: Complaints Division
607 East Adams, 14th Floor
Springfield, Illinois 62701
Review Question # 8

Joyce works in an office with Steve and Kate. Steve and Kate repeatedly ask Joyce about what type of underwear she wears. On days that she wears a dress, Steve will try to lift up Joyce’s dress in an attempt to look. Joyce has asked them to knock it off and reported the behavior to their manager. Despite this, Steve and Kate continue. Joyce is offended by the behavior and feels threatened by her coworkers. She addresses the issue with her coworker’s manager again, who tells her that she should not let the harmless “locker room talk” offend her. Does Joyce have additional recourse?

A. Yes, she can file a formal complaint with the EEO Officer, Ethics Officer, IDHR, OEIG, and/or EEOC. If she feels her safety is threatened, she should contact the police and request not to work near Steve and Kate.

B. No, she can file a claim only with Steve and Kate’s manager.

C. No, her coworkers did not create a hostile work environment.

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

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8 Answer A is correct. Joyce is entitled to come to work and not be inappropriately touched and harassed by coworkers. Unfortunately, Steve and Kate’s manager has failed to take appropriate action regarding this serious conduct. Joyce can file a complaint with the EEO Department or Ethics Officer, and an employee may also file a complaint with external agencies, such as the IDHR, or the OEIG. Steve and Kate’s behavior is sexually inappropriate and severe and pervasive and Joyce and any witnesses to the conduct should seek immediate assistance to resolve this matter while the complaint is being investigated. If Joyce feels unsafe she should call the police. Answer B is incorrect. Answer C is incorrect. Here, Joyce was reasonably offended by her coworkers’ behavior and asked them to stop. They did not do so, and she informed her manager of the behavior. The manager took no corrective action despite the complaint.
Consequences for Violating the Prohibition on Sexual Harassment

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, 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 RTA; and
- May also have fines or penalties imposed by a State or federal agency or court (such as if a charge was filed with the IDHR or in court, and the IDHR or a court determined that improper harassment occurred).

5 ILCS 430/50-5(g).

Consequences for Knowingly Making a False Report of Sexual Harassment

The Executive Ethics Commission (“EEC”) may levy a fine of up to $5,000 against any person who intentionally makes a false, frivolous, or bad faith allegation. 5 ILCS 430/50-5(e). Further, any person who intentionally makes a false report alleging sexual harassment to the OEIG, EEC, or to certain law enforcement agencies or officials is guilty of a misdemeanor. 5 ILCS 430/50-5(d). Similarly, an employee who knowingly makes a false complaint violates RTA’s EEO Policy and RTA’s Sexual Harassment Policy, and is subject to discipline, up to and including termination.
Review Question # 9

Even though he is not qualified, Chuck is seeking a promotion within his department and more pay. After making repeated requests, Chuck’s supervisor—Nicole—tells him that he is not getting a promotion or a pay raise. Chuck is upset and files a sexual harassment claim with his EEO Officer, alleging that Nicole is retaliating against him because he refused to date her. Chuck knows that this is not true. The EEO Officer investigates Chuck’s claim, and makes no finding against Nicole. Did Chuck’s filing of a false report violate RTA policies?

A. No, because Nicole suffered no consequences after the false report.

B. Yes, he violated RTA’s Sexual Harassment Policy, which prohibits filing a false sexual harassment claim.

C. No, because he did not report the claim to his Ethics Officer.

Select the best answer(s) then compare your response to the explanation below.  

Answer B is correct. RTA’s Sexual Harassment Policy prohibits the filing of fraudulent sexual harassment claims. (In addition, filing a fraudulent sexual harassment claim violates the Ethics Act). Filing a false claim may subject Chuck to discipline, up to and including termination of employment. Answer A is incorrect. Even though Nicole was not found to have committed retaliation, Chuck’s actions violated RTA policies. Answer C is incorrect, because filing a false report with the EEO Office violates RTA’s policies and the Ethics Act.
Information About Retaliation

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

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

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

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

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

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

- Reinstatement of employment;
- Two times back pay;
- Interest on back pay;
- Reinstatement of fringe benefits and seniority rights; and
- Payment of reasonable costs and attorneys’ fees.
Review Question # 10

Sarah works at RTA from 8:00am to 5:00pm, Monday through Friday. Don supervises Sarah. Every day at lunch, Don would inappropriately touch Sarah’s rear end as she walked by. Don also repeatedly asked Sarah out on dates, which she declined every time. Sarah reported Don’s conduct to the EEO Office.

After Sarah filed a complaint with the EEO Office about Don’s conduct, Don learned about it when he was interviewed by EEO staff. The next day, Don changes Sarah’s work hours so that she is only working midnight until 4:00am on Saturday and Sunday. The change will drastically affect Sarah’s weekly pay. Does Sarah have a retaliation claim?

A. No, because Don (as a supervisor) has a right to change Sarah’s work hours.

B. Yes, because Sarah reported Don to the EEO Office, and it appears that she was retaliated against due to filing that complaint.

C. No, because Sarah did not lose her job.  

10 The best response to this question is Answer B. Sarah cannot be retaliated against for filing a complaint with the EEO Office, and it appears that Don’s conduct in changing Sarah’s work schedule was retaliatory. Answer A is incorrect because here it appears that the change in working conditions was done in retaliation for filing a sexual harassment complaint. Answer C is incorrect because retaliation can include a change in work conditions.
Acknowledgement of Participation in:

2019 Sexual Harassment Training for Employees of RTA

I certify that I have carefully read and reviewed the content of, and completed, the 2019 Sexual Harassment Training for Employees of RTA. 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 RTA employment, administrative fines, and possible criminal prosecution, depending on the nature of the violation.

____________________________
Signature

____________________________
Printed Name
(first, middle initial, last)

____________________________
Employee ID Number

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

____________________________
Date

(To be properly credited for participating in sexual harassment training, please submit this form as directed by your supervisor.)