

Sexual Harassment Training

SIU EDWARDSVILLE
EMPLOYEES 2019

SOUTHERN ILLINOIS UNIVERSITY
EDWARDSVILLE

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I. WHAT IS SEXUAL HARASSMENT?

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

- 1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s employment,
- 2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting said 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.

State Officials and Employees Ethics Act (“Ethics Act”), 5 ILCS 430/5-65(b); Illinois Human Rights Act (“IHRA”), 775 ILCS 5/2-101(E).

Types of sexual harassment include quid pro quo and hostile work environment

- Quid pro quo sexual harassment – Quid pro quo is Latin phrase that means “this for that” or “something for something”. 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.
- Hostile work environment - A hostile work environment occurs when unwelcome sexual advances, requests for sexual favors, or any conduct of a sexual nature has the purpose or effect of substantially interfering with an individual’s work performance or creating an intimidating, hostile, or offensive working environment. To be a hostile work environment the sexually inappropriate conduct must be severe or pervasive.

Sexual advances and requests for sexual favors are not the only types of conduct that can be sexual harassment. Other conduct of a sexual nature can be part of quid pro quo sexual harassment or contribute to a hostile work environment, including unwelcome physical acts, verbal conduct, or visuals like:

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

(Continued)

- 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

II. SEXUAL HARASSMENT IS PROHIBITED

You are subject to the Ethics Act, 5 ILCS 430 et seq., which is intended to ensure that the functions of State government are conducted with fairness, honesty, and integrity. The Ethics Act prohibits sexual harassment:

All persons have a right to work in an environment free from sexual harassment. All persons subject to this Act are prohibited from sexually harassing any person, regardless of any employment relationship or lack thereof.

5 ILCS 430/5-65(a). A violation of that prohibition is a violation of the Ethics Act.

Further, the Illinois Human Rights Act prohibits sexual harassment in State employment, as well as in many private employment settings. Under the Illinois Human Rights Act, it is a civil rights violation “[f]or any employer, employee, agent of any employer, employment agency or labor organization to engage in sexual harassment” 775 ILCS 5/2-102(D).

CASE STUDY #1

Does the Ethics Act Apply?

Consider this scenario...A local delivery driver who is not a University employee comes into a University office at least every other day with deliveries. The office manager makes it a point to come out and greet him flirtatiously, and makes comments on his physique. She sometimes attempts to give him small gifts, and has pressured him to go on a date with her. The delivery driver has informed the office manager more than once that he is married and her behavior makes him uncomfortable, but she continues to ask him out on dates.

The Ethics Act DOES Apply!

This is an example of hostile work environment sexual harassment. As discussed previously, sexual harassment occurs when any 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. Here, the office manager continues to ask for dates, even after the delivery driver has communicated that her advances are unwelcome.

The Ethics Act prohibits sexual harassment regardless of employment relationship or lack thereof. As a University employee, the office manager is expected to follow the Ethics Act, which prohibits her from sexually harassing ANYONE. The fact that the delivery driver is not also a University employee does not make her behavior OK.

And consider this...

In the scenario we just considered, what was the sex of the harasser?

Sometimes stereotypes suggest that men are always the harassers and women are always the victims, and this is simply not the case. It's important to remember that sexual harassment can occur in lots of different ways, and can occur between people of the same sex.

III. REPORTING AN ALLEGATION OF SEXUAL HARASSMENT

Any employee who witnesses, is subjected to, or becomes aware of such conduct should immediately report the incident. You can report sexual harassment to your supervisor, your agency Ethics Officer, the Office of Equity and Compliance (“OEC”), the Human Resources office for the School of Medicine, the Office of Executive Inspector General (“OEIG”), and/or the Illinois Department of Human Rights (“IDHR”).¹

¹“This training discusses reporting options for University employees. This training does not provide legal advice and does not prevent anyone from exercising other rights, including contacting a private attorney or law enforcement.”

Reporting an Allegation of Sexual Harassment to Your Ethics Officer

Your Ethics Officer is an important resource. Your Ethics Officer is available to discuss any concerns about ethics violations you may have, including an allegation of sexual harassment. Ethics Officers can help interpret the Ethics Act for you as it relates to sexual harassment and how to report an allegation of sexual harassment. He or she will be knowledgeable about the sexual harassment reporting process conducted by the OEIG and by the IDHR, processes described below. Your Ethics Officer can assist you in making a report to these entities, to your supervisor, to the Office of Equal Opportunity, Access & Title IX Coordination (EOA).

Additionally, if an allegation of sexual harassment involves your supervisor, or if you are uncomfortable with your supervisor or are concerned that the allegation may not be handled appropriately, you can report the allegation directly to your Ethics Officer, the EOA, the OEIG, or IDHR. Your agency Ethics Officer can also assist with directing your allegation to another supervisor, the EOA, or member of your agency's management who can address it instead your supervisor.

Ethics officers may need to consult with university administrators or report to the OEIG, but will strive to disclose your information on a need-to-know basis. When reporting to a supervisor, a supervisor:

- Should strive to honor your request to keep information confidential that you request remain confidential as part of your report;
- Should share information only as required by law or in order to effect necessary management action to address your allegation;
- May seek assistance from or report the allegation to the agency Ethics Officer.

You may contact your University Ethics Officer at (618) 536-3461, (844) 597-6463, or ethics1@siu.edu.

You may also contact your Title IX Coordinator at (618) 650-2333 or jball@siue.edu.

Reporting an Allegation of Sexual Harassment to the Office of Executive Inspector General

The Office of Executive Inspector General (“OEIG”) is an independent executive branch State agency that works to ensure accountability in State government. The OEIG’s jurisdiction includes executive branch agencies, officers, and employees (other than those under the Attorney General, Secretary of State, Comptroller, or Treasurer), the four regional transit boards, the State public universities, and approximately 300 boards and commissions, plus vendors doing business with those agencies and entities. **It does not represent any party or agency in an investigation and does not investigate on behalf of any individual or agency.**

The primary role of the OEIG is to investigate allegations of misconduct and to make reports of its findings to the affected agencies and officials. The OEIG investigates, when appropriate, alleged violations of law, rule, or regulation committed by any employee of or those doing business with an entity under its jurisdiction. For example, the OEIG investigates allegations of waste, fraud, abuse of authority, or corruption. The OEIG investigates violations of the Ethics Act, which now contains a prohibition on sexual harassment.

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

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

The OEIG may accept complaints that are filed anonymously.

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

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

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

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

One of IDHR’s important roles is to investigate charges of discrimination, including allegations of sexual harassment in employment. After the investigation, IDHR prepares a written report with a recommendation on whether or not there is “substantial evidence” of a violation of the Illinois Human Rights Act. IDHR does not make a credibility determination when there is conflicting evidence.

A finding of “substantial evidence” means that there is enough evidence to take the case before an administrative law judge at the Illinois Human Rights Commission (“IHRC”), 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 a finding of “substantial evidence” is made, file a complaint with the HRC. That forum (either the HRC or the circuit court) will hear testimony, receive evidence, and determine whether unlawful discrimination or harassment occurred.

If a complainant succeeds in court or at the IHRC, the judge or IHRC can order remedies allowed by the Illinois Human Rights Act to make the complainant “whole.” These remedies may include back pay, lost benefits, clearing of a personnel file, emotional damages, hiring, promotion, reinstatement, front pay where reinstatement is not possible, and attorney’s fees and costs. Punitive damages, or damages intended to punish the harasser or the employer, are not available under the Illinois Human Rights Act.

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

In August 2018, the Human Rights Act was amended to allow individuals to opt-out of IDHR’s investigation and go directly to Circuit Court within 60 days of receiving a notice from IDHR. For more information regarding this process, please see Public Act 100-1066.

The process begins by filing a “charge” (or a report of an allegation) to IDHR within 300 days¹ of the alleged incident. The first step in filing a charge is to submit information in person or in writing by mail or fax, using a Complainant Information Sheet that is available on the IDHR website at www.illinois.gov/dhr/FilingCharge/Pages/Intake.aspx. It requires detailed information, including contact information, employer information, and most recent date of the alleged sexual harassment. A person filing a charge may also provide witness information and copies of relevant documents.

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

¹Public Act 100-0588 signed by the Governor on June 8, 2018, extended the time to file a charge to 300 days of the alleged incident. However, if the incident occurred before June 8, 2018, the 180-day timeframe applies.

IDHR offices:

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
866-740-3953 (TTY)

Hours for these offices, including hours when the offices conduct intake interviews for new Complainant Information Sheets, can be found on IDHR's website.

The Department of Human Rights Helpline

IDHR operates a helpline for reporting sexual harassment and discrimination. The helpline number is 1-877-236-7703 and there is also a website for reporting.

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

Through the helpline:

- IDHR will offer help with finding resources, including counseling services.
- IDHR will assist with filing sexual harassment complaints with IDHR or other agencies.
- People may anonymously report sexual harassment in both State employment and private-sector employment.
- For people who are subject to the Ethics Act, which includes State employees required to take this training, IDHR will report the allegations to the OEIG for further investigation *if the person making the report gives permission for IDHR to do so.*

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

What to do if You Experience or Witness Unwelcome Sexual Conduct

Sometimes you may not be sure if the inappropriate sexual behavior you are experiencing rises to the level of unlawful sexual harassment. In those cases, we encourage employees to report the conduct so that it can be appropriately addressed. Just because conduct does not rise to the level of unlawful “sexual harassment” does not mean it is acceptable behavior. Inappropriate conduct should be reported even if you are not sure whether it is sexual harassment.

Similarly, those individuals who witness inappropriate sexual behavior should report the conduct so that it can be addressed.

IV. 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 Human Rights Act, and the Whistleblower Act.

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

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

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

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

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

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

V. PENALTIES

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

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

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

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

False reports.

- The 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).
- Any person who intentionally makes a false report alleging sexual harassment to the OEIG, EEC, or to certain law enforcement agencies or officials is guilty of a misdemeanor. See 5 ILCS 430/50-5(d).

Obstructing, Interfering with, or Failing to Cooperate with an Investigation.

- The EEC may levy a fine of up to \$5,000 against any person who intentionally obstructs or interferes with an investigation conducted under the Ethics Act by the OEIG. 5 ILCS 430/50-5(e).
- Failure to cooperate with an investigation conducted under the Ethics Act by the OEIG, including intentional omissions and knowing false statements, is grounds for disciplinary action, including dismissal. 5 ILCS 430/20-70.

CASE STUDY #2

Bill sometimes makes comments to his administrative assistant Ann Smith, about how attractive she is. She never says anything when he makes these comments.

One day, Ann requests a raise. Bill says that he will consider her requests, and suggests that the two of them go for drinks and to dinner after work. Ann makes it clear that she wants to keep their relationship purely professional and would therefore prefer not to go out with him. Bill says that he understands.

Two weeks later, Bill informs Ann that he has denied her request for a raise.

She asks Bill for an explanation, and he says that if she would be more “cooperative” with him, then her chance for a raise would improve. Ann asks what does cooperative means. Bill smiles and says “You figure it out”.

What do you think?



Quid pro quo means “something for something” and this example illustrates the quid pro quo form of sexual harassment. Bill is using his position as Ann’s supervisor to pressure her into a sexual situation by making his decision about her raise a condition of whether she’s receptive to his request for a date.

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.

CASE STUDY #3

In a back office operation on campus, people swear at each other, call each other names, and make catcalls and comments at each other. One of the staff members visits a joke website every morning and shouts out the “sex joke” of the day. Most of the employees participate, but a few seem uncomfortable. Several employees have asked the staff member to stop this practice, but has continued and the jokes have become more explicit.

What do you think?



This is an example of the hostile environment form of sexual harassment. Notice how it doesn't involve conduct directed at any one person, but it's a pattern of behavior which is sexualizing the work environment, and not everyone is comfortable with it. Even when if we're sharing a joke with a friend, and the friend thinks it's hilarious, we still need to be mindful of how that joke affects others, and how it contributes to attitudes and behaviors which may be inappropriate in the workplace.

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.



Acknowledgement of Participation in
2019 Sexual Harassment Training for Employees

I certify that I have carefully read and reviewed the content of, and completed, the 2019 Sexual Harassment Training for Employees pursuant to 5 ILCS 430/1 et seq. Furthermore, I certify that I understand my failure to comply with the laws, rules, policies, and procedures referred to within this training course may result in disciplinary action up to and including termination of State employment/appointment, administrative fines, and possible criminal prosecution, depending on the nature of the violation.

Signature

Printed Name
(first, middle initial, last)

Month and Day of Birth
(e.g., July 15)

Date

Banner ID (800#)