

SIU Southern Illinois University
CARBONDALE

including the



2020
Harassment and Discrimination
Prevention Training

This Harassment and Discrimination Prevention Training will discuss sexual harassment, harassment, and discrimination and provide examples of each. During this training you will also learn where and how to report this conduct, information about retaliation, as well as penalties for engaging in this conduct or making a false report. These topics can be overwhelming, but keep in mind that the State has various resources, discussed later in this training, to assist you if you are not sure if the conduct you are experiencing or witnessing is prohibited. Remember, even if conduct does not rise to the level of unlawful sexual harassment, harassment, or discrimination does not mean that it is appropriate for the workplace.

I. HARASSMENT AND DISCRIMINATION ARE PROHIBITED

As a university employee or appointee, you are subject to the Ethics Act, which is intended to ensure that the functions of State government 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).

Thus, engaging in sexual harassment is a violation of the Ethics Act. Engaging in sexual harassment is also a violation of the Human Rights Act as well as other laws and agency policies. *See* 775 ILCS 5/2-102(D).

As part of this training, the Ethics Act requires that you be aware that you are also prohibited from engaging in harassment or discrimination as defined by the Human Rights Act. Specifically, you should know that the 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
- Ancestry
- Citizenship Status
- Color
- Disability
- Marital Status
- Military Status
- National Origin
- Order of Protection Status
- Pregnancy
- Race
- Religion
- Sex
- Sexual Orientation
- Unfavorable Discharge from Military Service

The 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.

Id. at 5/2-102.

II. WHAT IS SEXUAL HARASSMENT?

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

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

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 and does not require an employment relationship.

5 ILCS 430/5-65(b) (emphasis added).

If a nonemployee, nonmanagerial employee, or nonsupervisory employee sexually harasses or harasses an employee or nonemployee, the employer will be responsible if the employer becomes aware of the conduct and fails to take reasonable corrective measures. 775 ILCS 5/2-102(A), (A-10), (D), and (D-5).

The Southern Illinois University Sexual Harassment Policies are available here:

<http://siusystem.edu/board-of-trustees/legislation/board-legislation-policies.shtml#7D>

<https://equity.siu.edu/common/documents/Title-IX-policies.pdf>

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

- **Quid pro quo.** “*Something for something.*” This type of harassment occurs when a manager or supervisor communicates to a subordinate that in order for them to receive a promotion, raise, preferred assignment, or other type of job benefit – or to avoid something negative like discipline or an unpleasant assignment – the subordinate must do something sexual in return.
- **Hostile work environment.** A hostile work environment occurs when 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.

Examples of Sexual Harassment

Sexual advances and requests for sexual favors are not the only types of conduct that can be sexual harassment. Other conduct of a sexual nature can be part of quid pro quo sexual

harassment or contribute to a hostile work environment. This may include 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,” or “honey”;
- 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; and
- 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; and
- cyber stalking.

Knowledge Check

Employer A supervises Employee B. Employer A tells Employee B that unless Employee B has sex with Employer A, Employee B will be terminated.

True or False: This an example of quid pro quo sexual harassment.

The correct response is True.

Explanation of the Answer:

This is an example of quid pro quo sexual harassment because Employee B's submission to Employer A's unwelcome sexual advance is made a condition of employment.

Knowledge Check

Employee A is recently married and two months ago got back from the honeymoon. Since returning, Coworker B and Coworker C have been making sexual remarks about the honeymoon and asking personal questions. These comments occur almost on a daily basis and over time have gotten more graphic, and now Coworkers B and C are sending offensive pictures to Employee A's work email account. Employee A has started calling in sick and is missing deadlines because the comments and pictures are so upsetting.

Is this an example of hostile work environment sexual harassment?

- A. Yes, the coworkers are creating and intimidating, hostile, or offensive working environment.
- B. No, the coworkers are allowed to make these remarks and/or send pictures.

The correct response is Yes, A.

Explanation of the Answer:

This is an example of hostile work environment sexual harassment. Here, the coworkers' unwelcome conduct of a sexual nature is interfering with Employee A's work performance and creating an intimidating, hostile, or offensive working environment.

Knowledge Check

Jonathan goes to the campus recreation center with his co-workers, Adam and Kevin, every day after work. After working out, they shower and change in the locker room. One day Jonathan goes to his boss and tells him that Adam and Kevin keep making crude jokes and trying to grab his genitals while they are in the locker room. Jonathan says he asked them, repeatedly, to knock it off. Jonathan's boss tells him that they are "just being guys" and if it offends Jonathan, he should just work out at a different time. Jonathan has trouble concentrating at work and feels intimidated in the office by Adam and Kevin because of how they treat him in the locker room.

Could this be considered an example of hostile work environment sexual harassment?

- A. No, because all parties appear to have the same gender identity.
- B. Yes, even if Adam and Kevin are just "messaging around", their actions are still unwelcome conduct of a sexual nature that has the purpose or effect of substantially interfering with Jonathan's work performance.

Correct Answer is Yes, B.

Explanation of Answer:

This is an example of hostile work environment sexual harassment because, even if they are just "messaging around," Adam and Kevin's actions are still unwelcome conduct of a sexual nature that has the purpose or effect of substantially interfering with Jonathan's work performance or creating an intimidating, hostile or offensive working environment. Additionally, the attempt to grab Jonathan's genitals is an assault. If Jonathan feels unsafe, he should contact law enforcement.

Also, all the parties appear to have the same gender identity. Sometimes our gender stereotypes limit our understanding of sexual harassment. Sexual harassment can occur among people who have the same gender identity. Finally, Jonathan's boss was not helpful or responsive, and he used stereotypes about men's behavior to make an excuse for not doing something to help. This is a situation in which Jonathan should consider using additional resources, like the EOA office or the University Ethics Officer, to ensure that his concerns are addressed.

WHAT IS UNLAWFUL DISCRIMINATION?

“**Unlawful discrimination**” means: “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 5/1-103(Q).

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.¹

<p>Marital Status. The legal status of being married, single, separated, divorced, or widowed. <i>Id.</i> at §1-103(J).</p>	<p>Sex. The status of being male or female. <i>Id.</i> at §1-103(O).</p>	<p>National Origin. The place in which a person or one of his or her ancestors was born. <i>Id.</i> at §1-103(K).</p>
<p>Order of Protection Status. 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).</p>	<p>Age. 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).</p>	<p>Pregnancy. Pregnancy, childbirth, or medical or common conditions related to pregnancy or childbirth. <i>Id.</i> at §1-103(L-5).</p>
<p>Religion. 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).</p>	<p>Unfavorable Military Discharge. 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).</p>	<p>Sexual Orientation. 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).</p>
<p>Military Status. 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).</p>	<p>Disability. 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).</p>	<p>Citizenship Status. 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).</p>

¹ 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.” *Blacks Law Dictionary* (11th ed. 2019).

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.” *Id.* at §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).

The 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.²

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).

² The Illinois Administrative Code provides additional details regarding civil rights violations outlined in the Human Rights Act. For example, it outlines requirements for a reasonable accommodation for persons with disabilities. Specifically, it states: “[e]mployers and labor organizations must make reasonable accommodation of the known physical or mental limitations of otherwise qualified disabled applicants or employees, unless the employer or labor organization can demonstrate that accommodation would be prohibitively expensive or would unduly disrupt the ordinary conduct of business. . . . [The] accommodation may include: alteration of the facility or work site; modification of work schedules or leave policy; acquisition of equipment; job restructuring; provision of readers or interpreters; and other similar actions.” 56 Ill. Admin. Code § 2500.40.

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

Conduct may amount to unlawful discrimination if, based on a person’s actual or perceived membership to 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.

Knowledge Check

Employee A is a pregnant woman who recently told her employer, Employer B, that she was expecting a child and her due date was seven months away. The following week, Employee A asked for time off to attend a doctor's appointment. Three weeks later, Employee A had another doctor's appointment and requested time off work. Two weeks later, Employer B had a meeting with Employee A and told her that the agency had decided to make her position part-time because of Employee A's "condition". Employer B said this would be good for Employee A because now she could focus on her doctor's appointments and her health and not have to worry about working as many hours. Employee A is very upset by this because she wants a full-time position, and never told Employer B she wanted less hours or needed less hours because of her pregnancy.

True or False: This is not an example of unlawful discrimination.

The correct response is False.

Explanation of the Answer:

This is an example of unlawful discrimination because Employer B changed the conditions of Employee A's employment on the basis of her pregnancy.

Knowledge Check

Employee A, who is a 50 year-old Muslim woman, has been late to work for several months. Employee A's supervisor, Employer B, knows Employee A is a 50 year-old Muslim woman. Last week, Employer B told Employee A she was being put on a corrective action plan because of her tardiness, and if she did not improve her employment would be terminated. In fact, a month earlier Employer B terminated Employee C, a 30 year-old Christian male because of his repetitive tardiness. Employee A continued to be late, in some cases over two hours late. Employer B terminated Employee A and informed her it was because her chronic tardiness was against office policy and prevented her from completing the required work on time.

Is the action taken against Employee A considered unlawful discrimination?

- A. Yes, she was terminated because of her age.
- B. No, she was terminated for violating office policy.

The correct response is No, B.

Explanation of the Answer:

This is not an example of unlawful discrimination. Although Employee A is a member of several protected classes because she is over 40 years old, Muslim, and a woman, on these facts Employer B did not unlawfully discriminate against her. She was not discriminated against because she was terminated for violating office policy and not fulfilling the job duties, and not because of her age, religion, or sex. Furthermore, Employer B applied the same standard to another employee outside of Employee A's protected classes, who engaged in similar behavior.

III. 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.” *Id.* at §2-101(E-1). The definitions of these classes are outlined above.

Examples of Harassment

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.

Knowledge Check

Employee A, a woman whose national origin is Japanese, recently started working at a State agency. During her first week on the job, her coworkers start asking her questions about her “slanting eyes” and performing Karate chops in the air. The coworker in the cubicle next to her mispronounces her name every day and then laughs. Employee A has been working at this agency for a month now and the conduct of her coworkers has only gotten worse. She feels very uncomfortable at work and dreads interacting with her coworkers.

True or False: This is an example of harassment based on race and national origin.

The correct response is True.

Explanation of the Answer:

This is an example of harassment based on race and national origin because the unwelcome conduct is on the basis of Employee A’s race and national origin and has the purpose or effect of creating an intimidating, hostile, or offensive working environment.

Knowledge Check

Employee A is a man who recently married his male partner. Employee A was very excited about his wedding and put up pictures in his office of him and his spouse on their wedding day. Later that day, his supervisor, Employer B came to Employee A’s office. Employer B saw the photos and exclaimed – “I didn’t know you were gay!” Employer B then left Employee A’s office. The next day when Employee A arrived at work, he saw that his wedding photos had been drawn on with offensive markings and a sign was posted on his door that read: “Marriage is Between a Man and a Woman” in Employer B’s handwriting. Employee A was very upset and left work, telling his employer he didn’t feel well. When Employee A came back to work two days later, there was another sign on his door with quotes about marriage being sacred and not between two men. Employee A tried to work that day, but from his office he could hear Employer B making derogatory remarks about him.

Is this an example of harassment?

- A. No, Employer B exhibited acceptable behavior.
- B. Yes, it is unwelcome conduct on the basis of the employee’s sexual orientation.

The correct response is Yes, B.

Explanation of the Answer:

This is an example of harassment because it is unwelcome conduct on the basis of Employee A’s sexual orientation that has the purpose or effect of substantially interfering with the individual’s work performance or creating an intimidating, hostile, or offensive working environment.

IV. HOW TO REPORT AN ALLEGATION OF SEXUAL HARASSMENT, HARASSMENT, DISCRIMINATION, AND / OR RETALIATION

Any employee who witnesses, is subjected to, or becomes aware of sexual harassment, harassment, and/or discrimination should immediately report the incident. You can report to your supervisor, your agency ethics officer, the Office of Executive Inspector General (“OEIG”), and/or the Illinois Department of Human Rights (“IDHR”).³ In addition, if you or another employee experiences retaliation after reporting harassment or discrimination, that conduct can be reported to your supervisor, ethics officer, the OEIG, and the IDHR in the same manner that sexual harassment, harassment, and discrimination are reported.

Sometimes it is difficult to know whether the conduct that makes you feel uncomfortable is sexual harassment, harassment, or discrimination in violation of a law or policy. When in doubt, employees are encouraged to report inappropriate conduct so that the employer can address the issue. While a lot of this training focuses on the legal definitions of sexual harassment, harassment, and discrimination, your agency policies may discuss additional conduct that is prohibited. It is important to know and understand your agency’s policies and if you are unsure if something is improper to report the conduct so that it can be appropriately addressed.

Reporting an Allegation of Sexual Harassment, Harassment, and/or Discrimination to a Supervisor or Ethics Officer

You can report an allegation of sexual harassment, harassment, and/or discrimination to a supervisor. Supervisors will know the internal practices of your agency, and will be in a position to effect change and to help you navigate your agency’s internal complaint process. Although supervisors may seek assistance from or report the allegation to the agency ethics officer, they should share information only as required by law or in order to effect necessary management action to address your allegation.

You can also report an allegation of sexual harassment, harassment, and/or discrimination to your ethics officer. Your ethics officer is available to discuss any concerns about ethics violations you may have. Ethics officers can help interpret the Ethics Act for you as well as your agency policies that prohibit sexual harassment, harassment, and discrimination. Your ethics officer will be knowledgeable about the reporting process for the OEIG and IDHR, and can assist you in making a report to these entities or to your supervisor or another manager.

Additionally, if an allegation of sexual harassment, harassment, and/or discrimination 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 OEIG, and/or the IDHR.

³ This training discusses reporting to State agencies. This training does not provide legal advice and does not prevent anyone from exercising other rights, including contacting a private attorney, law enforcement, or federal or local resources regarding sexual harassment, harassment, and discrimination.

You may contact your Title IX Coordinator at:

- SIUC (including SOM) – (618) 453-4807 or equity@siu.edu.

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

Reporting an Allegation of Sexual Harassment, Harassment, and/or Discrimination to the Office of Executive Inspector General

The OEIG is an independent executive branch State agency that works to ensure accountability in State government. The OEIG’s jurisdiction includes executive branch agencies, officers, and employees (other than those under the Attorney General, Secretary of State, Comptroller, or Treasurer), the four regional transit boards, the State public universities, and approximately 300 boards and commissions, plus vendors doing business with those agencies and entities. **The OEIG does not represent any party or agency in an investigation nor does it 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 includes 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:

- completing a form online at <http://www.inspectorgeneral.illinois.gov>;
- calling the OEIG’s toll-free hotline at (866) 814-1113;
- 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;
- faxing a completed complaint form to (312) 814-5479;
- contacting the OEIG by telecommunications device for the disabled (TTY) at (888) 261-2734; or
- scheduling an appointment with 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, Harassment, and/or Discrimination to the Illinois Department of Human Rights

The IDHR is a State agency that administers the Human Rights Act. Individuals can report an allegation of sexual harassment, harassment, and/or discrimination to the IDHR by filing a charge within 300 days 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. It requires detailed information, including contact information, employer information, and the most recent date of the alleged conduct. 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 harassment and discrimination, filing a charge, the process for investigating and resolving an allegation, and other frequently asked questions. The IDHR has the following offices:

<u>Chicago</u>	<u>Springfield</u>	<u>Marion</u>
100 W. Randolph St., Suite 10-100 Chicago, IL 60601 312-814-6200 866-740-3953 (TTY)	535 West Jefferson, 1 st Floor Springfield, IL 62702 217-785-5100 866-740-3953 (TTY)	2309 W. Main St. Marion, IL 62959 618-993-7463 866-740-3953 (TTY)

The Department of Human Rights Helpline

The IDHR operates a helpline for reporting sexual harassment and discrimination. The helpline number is 1-877-236-7703. There is also a website for reporting - <https://www2.illinois.gov/sites/sexualharassment/Pages/default.aspx>.

Through the helpline:

- individuals can receive help with finding resources, including counseling services;
- individuals can receive assistance with filing sexual harassment and discrimination complaints with the IDHR or other agencies;
- individuals may anonymously report sexual harassment and discrimination in both State employment and private-sector employment; and
- for individuals who are subject to the Ethics Act, the IDHR will report the allegations to the OEIG for further investigation if the person making the report gives the IDHR permission.

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

V. INFORMATION ABOUT RETALIATION

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

Ethics Act: An officer, member, State employee, or State agency shall not take any retaliatory action against a State employee because the State employee:

- (1) Discloses or threatens to disclose to a supervisor or to a public body an activity, policy, or practice of any officer, member, State agency, or other State employee that the State employee reasonably believes is in violation of a law, rule, or regulation.
- (2) Provides information to or testifies before any public body conducting an investigation, hearing, or inquiry into any violation of a law, rule, or regulation by any officer, member, State agency, or other State employee.
- (3) Assists or participates in a proceeding to enforce the Ethics Act provisions.

5 ILCS 430/15-10.

Retaliatory action means reprimand, discharge, suspension, demotion, denial of promotion or transfer, or change in the terms or conditions of employment of an employee that occurs in retaliation for an employee's involvement in the protected activities outlined above. *Id.* at §15-5.

If retaliatory action occurs, the OEIG can investigate the 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. *Id.* at 50-5(a), (f).

Human Rights Act: It is a civil rights violation to retaliate against a person who opposes that which they reasonably and in good faith believe to be unlawful discrimination or sexual harassment. 775 ILCS 5/6-101(A). For example, it is unlawful for someone to retaliate against a person who filed a complaint, participated in an investigation, or testified regarding a matter under the Human Rights Act. *Id.*

Illinois Whistleblower Act: An 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). Further, an employer shall not retaliate against an employee for refusing to participate in an activity that would result in a violation of a State or federal law, rule, or regulation. *Id.* at §20. If an employer retaliates against an employee in violation of the Illinois Whistleblower Act, and the employee succeeds in a civil suit, the employee may receive relief necessary to make the employee whole, including reinstatement into their position, back pay with interest, and compensation for damages. *Id.* at §30.

VI. THE CONSEQUENCES FOR VIOLATING THE PROHIBITION ON SEXUAL HARASSMENT, HARASSMENT, AND UNLAWFUL DISCRIMINATION AND THE CONSEQUENCES FOR KNOWINGLY MAKING A FALSE REPORT

It is a violation of the Ethics Act to engage in sexual harassment as defined by the Act. As an Ethics Act violation, there are specific penalties for the violation. There are also penalties for making false reports of sexual harassment.

Any person who violates the Ethics Act's prohibition on sexual harassment:

- may be fined up to \$5,000 per offense;
- is subject to discipline or discharge; and
- may also have finest or penalties imposed by a State or federal agency or court.

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

False reports

- The EEC may levy a fine of up to \$5,000 against any person who intentionally makes a false, frivolous, or bad faith allegation, or who intentionally obstructs or interferes in an OEIG investigation. *Id.* at §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 id.* at §50-5(d).

Also note that failure to cooperate with an OEIG investigation conducted pursuant to the Ethics Act, including intentional omissions and knowing false statements, is grounds for disciplinary action, including dismissal. *Id.* at §20-70.

Although “harassment” and “unlawful discrimination” are not specific violations of the Ethics Act, the OEIG does investigate allegations of unlawful discrimination and harassment. There are serious consequences for engaging in unlawful discrimination and harassment, which may include being disciplined or terminated for violating the law or your agency’s policies.

In addition, engaging in sexual harassment, harassment, unlawful discrimination, and/or retaliation can subject you to proceedings before the Illinois Human Rights Commission or state or federal courts. For example, individuals can file a state or federal charge against the person or entity and if they prevail, they may be entitled to one or more of the following remedies:

- Actual damages for injury or loss, including emotional damages
- Attorneys’ fees and costs
- Prejudgment interest
- Backpay
- Obtaining a cease and desist order
- Fringe benefits
- Hiring
- Reinstatement
- Promotion

775 ILCS 5/8A-104.

including the



**ACKNOWLEDGEMENT OF PARTICIPATION IN:
2020 HARASSMENT AND DISCRIMINATION
PREVENTION TRAINING**

I certify that I have carefully read and reviewed the content of, and completed, the 2020 Harassment and Discrimination Prevention Training 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, administrative fines, and possible criminal prosecution, depending on the nature of the violation.

Signature

Printed Name
(first, middle initial, last)

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

Date

Dawg Tag/Employee ID Number

**Safe, Respectful &
Responsive:
Your Rights, Responsibilities, &
Resources Relating to
Harassment & Discrimination**

This training will cover:

- Part 1 of this training will provide you with an overview of the forms of harassment and discrimination that are identified in the Illinois Human Rights Act.
- Part 2 of this training will focus more specifically on recognizing and preventing sexual harassment.
- Part 3 of this training will provide you with information regarding your options for reporting incidents of harassment and discrimination.

Part 1: Harassment and Discrimination Under the Illinois Human Rights Act



In this section, you will learn how harassment and discrimination are defined under Illinois Law. Additionally, you'll review some examples to deepen your understanding of how harassment and discrimination may occur in the workplace.

What is Unlawful Discrimination?

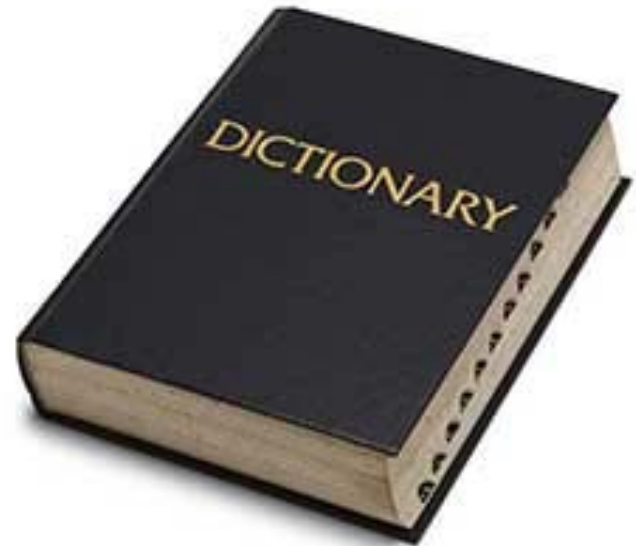
“Unlawful discrimination” means: “discrimination against a person because of his or her actual or perceived: race, color, religion, national origin, ancestry, age, sex, marital status, order of protection status, disability, military status, sexual orientation, pregnancy, or unfavorable discharge from military service”
775 ILCS 5/1-103(Q).

Let's unpack that...



Definitions

Each of the categories in the definition of unlawful discrimination has a specific legal meaning. Let's take a minute to make sure we have those definitions in mind.



Marital Status

Marital Status is defined as the legal status of being married, single, separated, divorced, or widowed.



Sex

Sex is defined as the status of being male or female.



National Origin

National Origin is defined as the place in which a person or one of his or her ancestors was born.



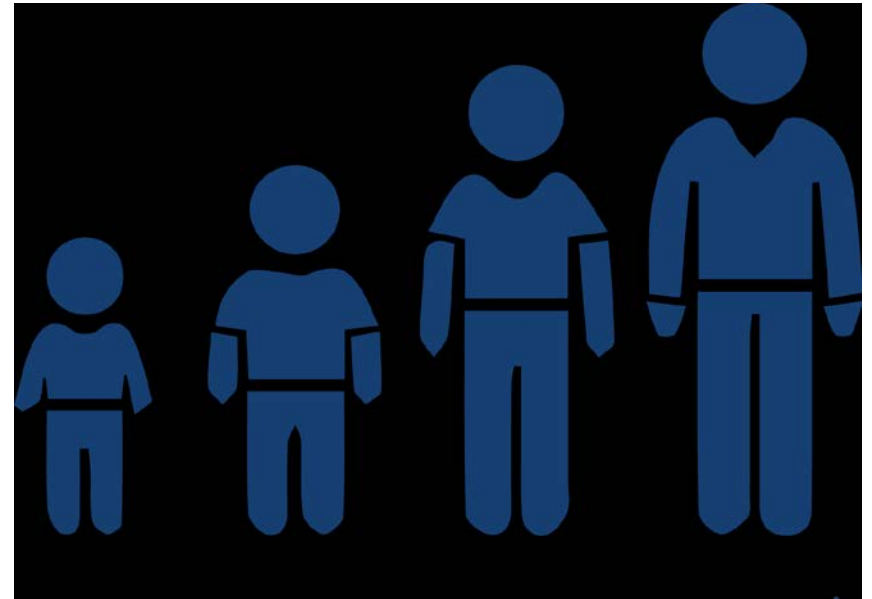
Order of Protection Status

Order of Protection Status is defined as 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.



Age

Age is defined as 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.



Pregnancy

Pregnancy is defined as Pregnancy, childbirth, or medical or common conditions related to pregnancy or childbirth.



Religion

Religion is defined as 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.



Unfavorable Military Discharge

Unfavorable Military Discharge is defined as 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".



Sexual Orientation

Sexual Orientation is defined as the actual or perceived heterosexuality, homosexuality, bisexuality, or gender-related identity, whether or not traditionally associated with the person's designated sex at birth.



Military Status

Military Status is defined as 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.



Disability

Disability is defined as 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.



Citizenship Status

Citizenship Status is defined as 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.



Unlawful discrimination in the workplace

Let's take a deeper dive into understanding unlawful discrimination in the workplace



Discrimination is a Civil Rights Issue

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.” *Id.* at §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).

The 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.



Forms of Discrimination



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

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

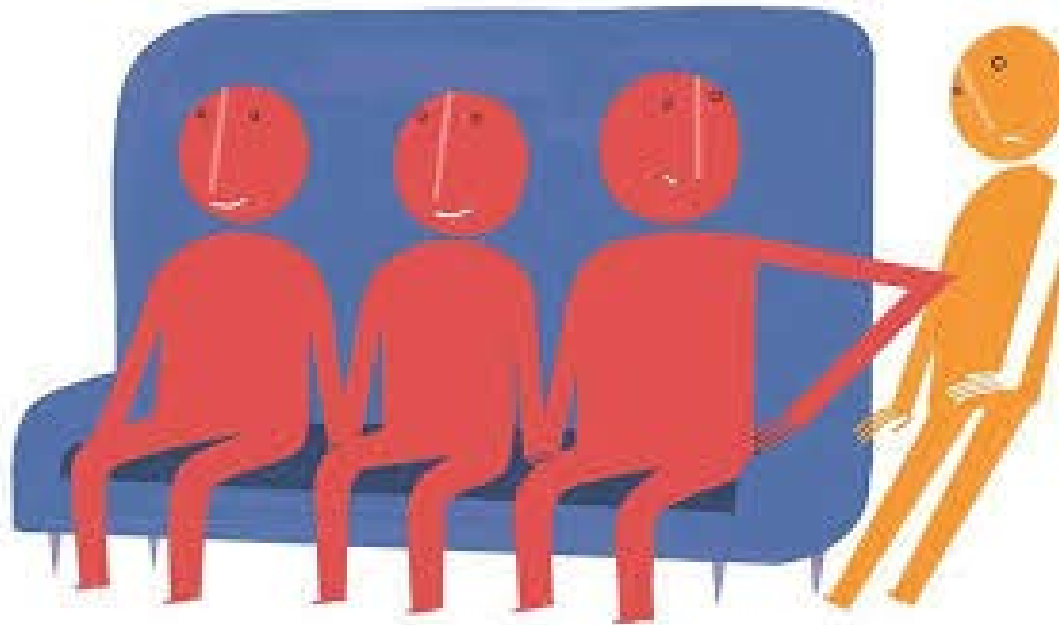
- recruitment;
- hiring;
- promotion;
- demotion;
- renewal of employment;
- selection for training or apprenticeship;
- discharge;
- discipline;
- tenure of terms;
- privileges; and/or
- other conditions of employment.

Employment Action

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.



Examples Of Discrimination



Example 1

Monica refuses to approve Stuart's leave request during the Jewish Passover observance. She states that she was not "kosher" with him taking off during this time of the year. Stuart's colleague, Susie, asked for leave at the same time to celebrate Easter and Susie's request was granted.

This is a fairly clear example of religious discrimination. Employees of different faith traditions are being treated differently. Additionally, Monica's use of the term "kosher" in this context is disrespectful and inappropriate.

Example 2

Sally is scheduled to go on a presentation trip in a couple of months. When Sally announces she is pregnant, her supervisor tells her that she is taking Sally off the roster of presenters for the trip. When Sally asks why, the supervisor tells her that no one wants to have a pregnant woman presenting an important plan.

This is an example of unlawful discrimination based on pregnancy. Sally did not request an accommodation for her pregnancy and it appears the only reason she was told she could not present is because she is pregnant.

Harassment Is a Form of Discrimination

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.” *Id.* at §2-101(E-1). The definitions of these classes are outlined above.

Harassment can include:

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.

Example 1

Colleen and Rodrigo work in the same office. Every Tuesday, Colleen approaches Rodrigo and says, in an exaggerated Mexican accent, “Hey, Rodrigo, it’s Taco Tuesday, where are my tacos?!” Rodrigo has told Colleen, more than once, that he is Portuguese and doesn’t really know much about Mexican food. Rodrigo finds Colleen’s “joke” irritating and distracting.

This is an example of harassment based on perceived national origin. It appears that Colleen is stereotyping Rodrigo based on his name and making a “joke” that refers to her perception of Rodrigo as Mexican. This conduct is harassment because Colleen’s pervasive offensive comments to Rodrigo have the purpose or effect of substantially interfering with his work performance or creating an intimidating, hostile, or offensive working environment.

Example 2

Collin is in his late 20s and works in the same office as Phebe, who is in her early 60s. Collin frequently criticizes Phebe for being old-fashioned in her work habits, makes a lot of “jokes” about wanting Phebe to retire, and when he disagrees with Phebe about something, Collin often rolls his eyes and says, “OK, Boomer.”

This is an example of harassment based on age. Collin appears to have identified Phebe as someone who is over 40 and is singling her out for insults and mockery based on her age. Collin’s pervasive offensive comments to Phebe have the purpose or effect of substantially interfering with her work performance or creating an intimidating, hostile, or offensive working environment.

Part 2: Sexual Harassment



The Ethics Act

As an employee of SIUE, you are subject to the State Officials and Employees Ethics Act (Ethics Act) 5 ILCS 430 *et seq.*, which is intended to ensure that the functions of State government are conducted with fairness, honesty, and integrity. The Ethics Act prohibits sexual harassment:

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

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

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).

How The Ethics Act Defines Sexual Harassment

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

- (i) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
- (ii) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
- (iii) 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 an employee is assigned to perform his or her duties and does not require an employment relationship.

Employer Responsibility

If a nonemployee, nonmanagerial employee, or nonsupervisory employee sexually harasses or harasses an employee or nonemployee, the employer will be responsible if the employer becomes aware of the conduct and fails to take reasonable corrective measures. 775 ILCS 5/2-102(A), (A-10), (D), and (D-5).

Types of Unlawful Sexual Harassment

Quid pro quo. “*Something for something.*” This type of harassment occurs when a manager or supervisor communicates to a subordinate that in order for them to receive a promotion, raise, preferred assignment, or other type of job benefit – or to avoid something negative like discipline or an unpleasant assignment – the subordinate must do something sexual in return.

Hostile work environment. A hostile work environment occurs when 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.

Unwelcome Behavior

- Sexual conduct becomes sexual harassment when the behavior is unwelcome. Behavior may be unwelcome in the sense that the victim did not solicit or invite it, or in the sense that the victim regarded the conduct as undesirable or offensive.
- Welcome behavior can quickly become unwelcome behavior. What starts off as welcome behavior (consensual joking) can cross a line and become unwelcome behavior.
- Also, consent can be revoked at any time. When someone experiencing sexual harassment behavior says, "stop talking to me like this" **it must stop**. The perpetrator cannot use as a defense "Well you started it." or "You were ok with it at first."

Gender Identity, Sexual Orientation, and Third Parties (Bystanders)

- All persons can be victims of sexual harassment regardless of the victim's **gender identity** or the perpetrator's gender identity.
- All persons can be victims of sexual harassment regardless of the victim's **sexual orientation** or the perpetrator's sexual orientation.
- Victims of sexual harassment can include not only the target of the sexual harassment, but also **third parties or bystanders**.

Understanding Harassment

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

Examples

- 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

Even more examples!

- 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

Online Harassment

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:



Examples

- 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

Hypotheticals

We'll conclude this section with a few hypotheticals. Based on what you've learned, which behaviors are forms of sexual harassment? If you observed or were affected by one of these situations, what would you do?



Example 1

Danny, a male employee, is constantly subjected to jokes and ridicule from a group of female employees. They talk about him sexually whenever he walks by the break room. They make jokes about what he looks like without his clothes on. At first, Danny sees it as harmless fun, but soon he starts to feel that the ridicule is spreading throughout the office and he is uncomfortable with everyone's jokes. He wants the sexual jokes to stop, and has asked his co-workers to “knock it off”, but the jokes and comments persist. Danny doesn't know how to resolve the problem, especially when his manager tells him that "it's just harmless fun."

What do you think?



This is an example of hostile work environment sexual harassment because, even if they are just “joking,” Danny’s co-workers’ behavior is unwelcome conduct of a sexual nature that has the purpose or effect of substantially interfering with Danny’s work performance or creating an intimidating, hostile or offensive working environment.

What do you think?



A big factor in determining whether a behavior is sexual harassment is if it is welcome or unwelcome. In this scenario, Danny has told his co-workers to “knock it off”. When they persist in making comments, this behavior is clearly unwelcome.

And did you notice?

In the scenario you just considered, Danny, who identifies as male, was the victim of sexual harassment.

Gender stereotypes may influence our perceptions about what may constitute sexual harassment. But keep in mind that sexual harassment can occur regardless of the gender identities of the people involved.



And did you also notice?

And what about Danny's boss? Danny's boss was not helpful or responsive, and minimized Danny's concerns.

This is a situation in which Danny should consider using additional resources, like the EOA office or the University Ethics Officer, to ensure that his concerns are addressed.

Example 2

Jenny has recently received her Master's degree and started a new professional position. When she was offered her job, she was told there was a budget for professional development, including attending a professional conference at which helpful training opportunities relating to her position will be offered.

Jenny approaches her supervisor, Kyle, to ask him about registering for the conference. Kyle suggests that they could talk about it over drinks after work. Kyle then makes a "joke" that Jenny can go to the conference if Kyle can come with her and stay in the same hotel room. Jenny tells Kyle that she would not be comfortable with that.

The next day, Jenny again attempts to ask Kyle about the conference. He then abruptly tells her that the budget has been cut and she can't attend the conference.

What do you think?



Kyle appears to be denying Jenny access to professional development based on her refusal to accept his advances.

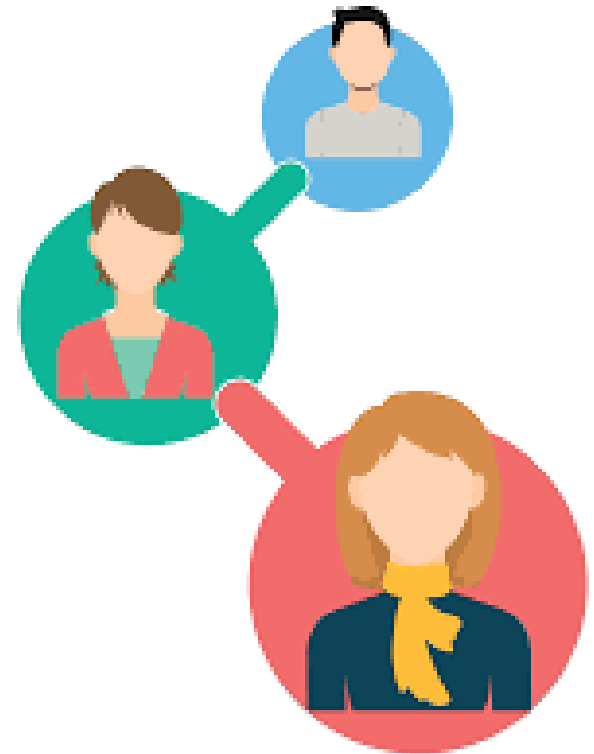
Quid pro quo means “something for something” and this example illustrates the quid pro quo form of sexual harassment.

Example 3

Brandi is an office manager in a busy department in the University. As part of her work, she coordinates the service calls for the printers and copiers in the office. Jeremy is the technician who typically comes to make the service and he works for an outside vendor with whom the University has a contract. While in the office, Jeremy stops by Brandi's desk and tries to tell her "The Dirty Joke of the Day". Jeremy also asks Brandi questions about her personal life and has repeatedly pressured her to come over to his house to "Netflix and chill." Brandi is very uncomfortable and has told her supervisor about her concerns. Her supervisor told her that nothing could be done because Jeremy is not a University employee.

What do you think?

Jeremy was not an SIUE employee, but Brandi is still within her rights to make a report about his behavior. Brandi's supervisor can and should take responsibility for addressing this situation and preventing a recurrence of this harassment. State vendors can engage in improper sexual harassment just like State employees.



Part 3: Reporting Options & Resources

If you experience or observe a situation involving any kind of harassment or discrimination, knowing how to address it can feel difficult.

The next few slides will explore the options available to you for reporting these types of incidents.



Reporting Within SIUE

- If it is possible, start with your supervisor. Your supervisor may be able to identify some immediate responsive strategies which can address your concern.
- Contact the EOA Office. The EOA Office will help identify both formal and informal strategies for addressing your concern.
- To reach the EOA Office, you can call x2333, e-mail the EOA Director (Jamie Ball) at jball@siue.edu

Reporting to SIU's Ethics Officer

You can also report an allegation of sexual harassment, harassment, and/or discrimination to your ethics officer. Your ethics officer is available to discuss any concerns about ethics violations you may have. Ethics officers can help interpret the Ethics Act for you as well as your agency policies that prohibit sexual harassment, harassment, and discrimination. Your ethics officer will be knowledgeable about the reporting process for the OEIG and IDHR, and can assist you in making a report to these entities or to your supervisor or another manager.

Additionally, if an allegation of sexual harassment, harassment, and/or discrimination 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 OEIG, and/or the IDHR.

SIUE Ethics Administrator is Dr. Venessa Brown, vbrown@siue.edu; 618.650.5867.

SIU Ethics Officer is Michelle Taylor, ethics1@siu.edu; 618-536-3461.

Reporting an Allegation of Sexual Harassment, Harassment, and/or Discrimination to the Office of Executive Inspector General

The OEIG is an independent executive branch State agency that works to ensure accountability in State government. The OEIG's jurisdiction includes executive branch agencies, officers, and employees (other than those under the Attorney General, Secretary of State, Comptroller, or Treasurer), the four regional transit boards, the State public universities, and approximately 300 boards and commissions, plus vendors doing business with those agencies and entities. The OEIG does not represent any party or agency in an investigation nor does it 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 includes a prohibition on sexual harassment.

Filing a Complaint with OEIG

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:

- completing a form online at <http://www.inspectorgeneral.illinois.gov>;
- calling the OEIG's toll-free hotline at (866) 814-1113;
- 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;
- faxing a completed complaint form to (312) 814-5479;
- contacting the OEIG by telecommunications device for the disabled (TTY) at (888) 261-2734; or
- scheduling an appointment with 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, Harassment, and/or Discrimination to the Illinois Department of Human Rights

The IDHR is a State agency that administers the Human Rights Act. Individuals can report an allegation of sexual harassment, harassment, and/or discrimination to the IDHR by filing a charge within 300 days 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. It requires detailed information, including contact information, employer information, and the most recent date of the alleged conduct. 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 harassment and discrimination, filing a charge, the process for investigating and resolving an allegation, and other frequently asked questions. The IDHR has the following offices:

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

Springfield
535 West Jefferson, 1st
Floor
Springfield, IL 62702
217-785-5100
866-740-3953 (TTY)

Marion
2309 W. Main St.
Marion, IL 62959
618-993-7463
866-740-3953 (TTY)

The Department of Human Rights Helpline

The IDHR operates a helpline for reporting sexual harassment and discrimination. The helpline number is 1-877-236-7703. There is also a website for reporting - <https://www2.illinois.gov/sites/sexualharassment/Pages/default.aspx>.

Through the helpline:

- individuals can receive help with finding resources, including counseling services;
- individuals can receive assistance with filing sexual harassment and discrimination complaints with the IDHR or other agencies;
- individuals may anonymously report sexual harassment and discrimination in both State employment and private-sector employment; and
- for individuals who are subject to the Ethics Act, the IDHR will report the allegations to the OEIG for further investigation if the person making the report gives the IDHR permission.

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

Information About Retaliation



Retaliation is Prohibited

- Retaliation against individuals who report sexual harassment, harassment, and/or discrimination, or who participate in investigations and other proceedings regarding those matters, is strictly prohibited by the Ethics Act, the Human Rights Act, and the Illinois Whistleblower Act.
- Ethics Act: An officer, member, State employee, or State agency shall not take any retaliatory action against a State employee because the State employee:
 - (1) Discloses or threatens to disclose to a supervisor or to a public body an activity, policy, or practice of any officer, member, State agency, or other State employee that the State employee reasonably believes is in violation of a law, rule, or regulation.
 - (2) Provides information to or testifies before any public body conducting an investigation, hearing, or inquiry into any violation of a law, rule, or regulation by any officer, member, State agency, or other State employee.
 - (3) Assists or participates in a proceeding to enforce the Ethics Act provisions.
- 5 ILCS 430/15-10.
- Retaliatory action means reprimand, discharge, suspension, demotion, denial of promotion or transfer, or change in the terms or conditions of employment of an employee that occurs in retaliation for an employee's involvement in the protected activities outlined above. Id. at §15-5.
- If retaliatory action occurs, the OEIG can investigate the 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. Id. at 50-5(a), (f).

Retaliation is Prohibited

- Human Rights Act: It is a civil rights violation to retaliate against a person who opposes that which they reasonably and in good faith believe to be unlawful discrimination or sexual harassment. 775 ILCS 5/6-101(A). For example, it is unlawful for someone to retaliate against a person who filed a complaint, participated in an investigation, or testified regarding a matter under the Human Rights Act. *Id.*
- Illinois Whistleblower Act: An 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). Further, an employer shall not retaliate against an employee for refusing to participate in an activity that would result in a violation of a State or federal law, rule, or regulation. *Id.* at §20. If an employer retaliates against an employee in violation of the Illinois Whistleblower Act, and the employee succeeds in a civil suit, the employee may receive relief necessary to make the employee whole, including reinstatement into their position, back pay with interest, and compensation for damages. *Id.* at §30.

Consequences, Penalties, & Remedies



Discipline & Fines

It is a violation of the Ethics Act to engage in sexual harassment as defined by the Act. As an Ethics Act violation, there are specific penalties for the violation.

Any person who violates the Ethics Act's prohibition on sexual harassment:

- may be fined up to \$5,000 per offense;
- is subject to discipline or discharge; and
- may also have finest or penalties imposed by a State or federal agency or court.

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

False Reporting

The EEC may levy a fine of up to \$5,000 against any person who intentionally makes a false, frivolous, or bad faith allegation, or who intentionally obstructs or interferes in an OEIG investigation. *Id.* at §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 *id.* at §50-5(d).

Cooperation with Investigations

It's important to know that failure to cooperate with an OEIG investigation conducted pursuant to the Ethics Act, including intentional omissions and knowing false statements, is grounds for disciplinary action, including dismissal. *Id.* at §20-70.

Remedies

Although “harassment” and “unlawful discrimination” are not specific violations of the Ethics Act, the OEIG does investigate allegations of unlawful discrimination and harassment. There are serious consequences for engaging in unlawful discrimination and harassment, which may include being disciplined or terminated for violating the law or your agency’s policies.

In addition, engaging in sexual harassment, harassment, unlawful discrimination, and/or retaliation can subject you to proceedings before the Illinois Human Rights Commission or state or federal courts. For example, individuals can file a state or federal charge against the person or entity and if they prevail, they may be entitled to one or more of the following remedies:

- Actual damages for injury or loss, including emotional damages
- Attorneys’ fees and costs
- Prejudgment interest
- Back pay
- Obtaining a cease and desist order
- Fringe benefits
- Hiring
- Reinstatement
- Promotion

775 ILCS 5/8A-104.

Questions?

Thank you for your attention to this important information.

If you have questions regarding any of the information in this presentation, please contact Office of Equal Opportunity, Access & Title IX Coordination (EOA) at 618-650-2333 or contact Jamie Ball (Director) at jball@siue.edu.

ACKNOWLEDGEMENT OF PARTICIPATION IN: 2020 HARASSMENT AND DISCRIMINATION PREVENTION TRAINING

I certify that I have carefully read and reviewed the content of, and completed, the 2020 Harassment and Discrimination Prevention Training 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, administrative fines, and possible criminal prosecution, depending on the nature of the violation.

Signature

Printed Name
(first, middle initial, last)

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

Date

State Agency Name/Work Location