

# 2024 Harassment & Discrimination Prevention Training

## for Agencies of the Illinois Governor

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### In this training, you will learn...

- Information about implicit and explicit bias, macro- and micro-aggressions, and the role of bystanders;
- Information about what unlawful discrimination, harassment, and sexual harassment are;
- Where and how to report allegations of unlawful discrimination, harassment, and sexual harassment;
- Information about retaliation, also known as "whistleblower" protections; and
- Penalties for engaging in discrimination, harassment, sexual harassment, and retaliation, as well as making false reports.

The State has various avenues for reporting if you are experiencing or witnessing prohibited conduct.

Remember, even if conduct does not rise to the level of unlawful discrimination, harassment, or sexual harassment, that does not mean that it is appropriate for the workplace.

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### Discrimination and Harassment are Prohibited

State employees, officials, and appointees are prohibited from engaging in unlawful discrimination, harassment, and sexual harassment.

Unlawful discrimination, harassment, and sexual harassment are each violations of the Illinois Human Rights Act ("Human Rights Act," [775 ILCS 5](#)). Additionally, unlawful discrimination is a violation of the Illinois Civil Rights Act of 2003 ("Civil Rights Act," [740 ILCS 23](#)) and sexual harassment is a violation of the State Officials and Employees Ethics Act ("Ethics Act," [5 ILCS 430](#)). Finally, unlawful discrimination, harassment, and sexual harassment are often violations of agency personnel policies. It is your responsibility to become familiar with and abide by your agency's policies.

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### The Ethics Act

State employees, officials, and appointees are subject to the State Officials and Employees Ethics Act, or "Ethics Act" ([5 ILCS 430](#)).

The Ethics Act requires that:

- You be aware that you are prohibited from engaging in unlawful discrimination or harassment as defined by the Human Rights Act ([775 ILCS 5](#));
- "All persons have a right to work in an environment free from sexual harassment." [5 ILCS 430/5-65\(a\)](#);

- "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\(a\)](#);
- Each agency must conduct a harassment and discrimination prevention training; and
- A report be made to the Executive Ethics Commission ("EEC") including the names of individuals who failed to complete this required training.

The report of individuals who did not complete this training will be made publicly available on the EEC website.

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## The Illinois Human Rights Act

The Human Rights Act ([775 ILCS 5](#)) makes it a civil rights violation to engage in unlawful discrimination, harassment, sexual harassment, and retaliation. This training will discuss each of these prohibited actions and methods for reporting such conduct.

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## The Illinois Civil Rights Act of 2003

Under the Civil Rights Act, no unit of state, county, or local government may:

- Exclude a person from participation in, deny a person the benefits of, or subject a person to discrimination under any program or activity based on that person's race, color, national origin, or gender; or
- Use criteria or methods of administration that have the effect of subjecting individuals to discrimination because of their race, color, national origin, or gender (commonly referred to as "disparate impact" or "adverse effect").

### [740 ILCS 23/5\(a\)](#).

A policy, practice, or action that appears neutral but has a discriminatory effect on a protected group is prohibited. For example, requiring certain questions to be answered by all applicants may have a disparate impact and could be deemed discriminatory if applicants of a protected class are eliminated more frequently as a result of asking a specific question.

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## Implicit and Explicit Bias

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### Implicit and Explicit Bias

**Implicit biases**, also known as unconscious or hidden biases, are negative associations that people unknowingly hold. They are expressed automatically, without conscious awareness. Implicit biases affect individuals' attitudes and actions, thus creating real-world implications. This can occur even though individuals may not be aware that those biases exist internally.

**Explicit biases**, also referred to as conscious biases, are the attitudes and beliefs we have about a person or group of people. These biases and their expression often arise as the direct result of a perceived threat.

**Examples of bias include** ableism, ageism, confirmation bias, gender bias, in-group bias, racial bias, prove it again bias, tightrope bias, and the caregiver wall bias.

**[See DEIA Training for additional information].**

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## Examples of Bias

**Confirmation Bias:** the tendency to gather evidence that confirms preexisting expectations, typically by emphasizing or pursuing supporting evidence while dismissing or failing to seek contradictory evidence. For example, a manager comes up with an idea for recruitment efforts and, although there is little to no research to support this approach, the manager tries to validate the idea by reaching out to friends and colleagues who they know will support the idea.

**Prove It Again Bias:** asking women, people of color, and other marginalized individuals to prove their competency again while those with dominant identities are presumed to be competent. Their mistakes or transgressions are noticed more and remembered longer. For example, a woman working in academia might be viewed as not "tenurable material," while her male colleague is seen as "engaged in research that will take longer to reach the publication world." The woman is judged on accomplishments, while the man is judged on potential.

**Tightrope Bias:** a narrower range of behavior that is accepted from women, people of color, and other marginalized people. For example, men are often admired and thanked for their assertiveness, while women, and particularly women of color, are considered bossy, aggressive, abrasive or difficult to work with.

**Caregiver Wall Bias:** assumptions that parents or caregivers are no longer committed to their work and that they are less competent as a result of pregnancy, parenthood, or caregiving for a relative.

**[See DEIA Training for additional information].**

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## Macro- and Micro-aggressions and Bystanders

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**Macroaggression** is large-scale or overt aggression toward those of a certain identity, typically those that are outside of dominant identity groups.

- **Example:** Calling someone a derogatory name based on their membership in a protected class

**Microaggressions** are the everyday verbal, nonverbal, and environmental slights, snubs, or insults, whether intentional or unintentional, which communicate hostile, derogatory, or negative messages to target persons based solely upon their marginalized group membership.

- **Example:** Complimenting a person of color on their English

**A bystander** is an individual who witnesses an incident but is not the perpetrator or the victim. An active bystander intervenes after witnessing <https://www.ilga.gov/legislation/ilcs/documents/077500050K2-102.htm> harassment, discrimination, or other inappropriate conduct. The bystander may intervene by talking with the aggressor, talking with the victim, taking note of the incident, reporting the incident,

and/or offering additional support. Active bystanders help put an end to and prevent future harmful situations or culture in the workplace.

**[See DEIA Training for additional information].**

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## Unlawful Discrimination

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### Unlawful Discrimination

Unlawful discrimination is defined by the Human Rights Act.

**Unlawful discrimination** is discrimination against a person because of the person's "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..." as well as on the basis of citizenship status or work authorization status (emphasis added) [775 ILCS 5/1-103\(Q\)](#) and [§2-102\(A\)](#).

Each of the categories listed above is a protected class defined by the Human Rights Act.

Unlawful discrimination occurs when an employer takes an employment action because of an applicant's or employee's actual or perceived membership in one of the protected classes listed above. However, an employer is not prevented from taking employment action for another reason unrelated to an applicant's or employee's membership in a protected class.

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### Protected Classes

The following are definitions of protected classes as they appear in the Human Rights Act:

- **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.
  - **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 of the U.S. and not a U.S. citizen who is lawfully present and who is protected from discrimination under the provisions of Section 1324b of Title 8 of the United States Code, as now or hereafter amended.
  - **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. Discrimination based on disability includes discrimination against an individual because of the individual's association with a person with a disability.
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### Protected Classes (Continued)

- **Marital Status.** The legal status of being married, single, separated, divorced, or widowed.
  - **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.
  - **National Origin.** The place in which a person or one of his or her ancestors was born.
  - **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.
  - **Pregnancy.** Pregnancy, childbirth, or medical or common conditions related to pregnancy or childbirth.
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### Protected Classes (Continued)

- **Race.** Includes traits associated with race, including, but not limited to, hair texture and protective hairstyles such as braids, locs, and twists.
  - **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.
  - **Sex.** The status of being male or female.
  - **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.
  - **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".
  - **Work Authorization Status.** The status of being a person born outside of the U.S., and not a U.S. citizen, who is authorized by the federal government to work in the United States.
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### Protected Classes (Continued)

Ancestry and color are not defined by the Human Rights Act; however, the U.S. Equal Employment Opportunity Commission (EEOC) has issued guidance on the prohibition against discrimination based on color.

- **Color.** The EEOC guidance states that "color" is "commonly understood [to mean] pigmentation, complexion, or skin shade or skin tone." EEOC Compliance Manual, Doc. No. 915.003, at 15 (2006).

Black's Law Dictionary defines "**ancestry**" as "a line of descent; collectively, a person's forebears; lineage."

Black's Law Dictionary (11th ed. 2019).

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## Additional Definitions

The following definitions relate to gender identity. Individuals may or may not use these terms to describe themselves. Similarly, one's use of these terms may change based on their identity development and disclosure. These terms may change as our understanding of gender identity evolves.

- **Cisgender** describes someone who identifies with their sex assigned at birth.
  - **Gender expression** refers to an individual's presentation including, but not limited to, characteristics and behaviors (such as appearance, dress, grooming, mannerisms, voice or speech patterns, activities, and social interactions) that may be perceived as masculine, feminine, both, or neither.
  - **Gender nonconforming** describes someone whose gender expression or identity falls outside traditional, societal, or stereotyped expectations based on sex assigned at birth. Gender nonconforming individuals may identify as male, female, some combination of both, or neither.
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## Additional Definitions (Continued)

- **Nonbinary** describes someone whose gender identity is not exclusively male or female, including those who identify as a gender other than male or female, as more than one gender, or as no gender.
  - **Pronouns** are used to refer to someone without using their name. Common examples include, "she/her/hers," "he/him/his," "they/them/theirs," and "ze/zir/zirs".
  - **Transgender** is an umbrella term that can be used to describe individuals whose gender identity is different from their sex assigned at birth. Being transgender is not dependent on appearance, body parts, or medical procedures.
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## Civil Rights Violations

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, citizenship status or work authorization status." [775 ILCS 5/2-102\(A\)](#). Employment agencies and labor organizations are also prohibited from certain conduct on the basis of unlawful discrimination, citizenship status or work authorization status. [775 ILCS 5/2-102\(B\) and \(C\)](#).

In addition, the Human Rights Act outlines several practices that are civil rights violations, including provisions related to:

- language,
  - religious discrimination,
  - training and apprenticeship programs,
  - immigration-related practices,
  - reasonable accommodations, and
  - arrest records.
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## Language

It is unlawful for employers to prohibit employees from speaking their native language in communications that are unrelated to their work duties. [775 ILCS 5/2-102\(A-5\)](#).

"Language" refers to a person's native tongue, such as Polish, Spanish, or Chinese, but does not include slang, jargon, profanity, or vulgarity.

For example, employees cannot be prohibited from speaking their native language when discussing their vacation plans during their lunch break.

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## Religious Discrimination

It is unlawful "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. [775 ILCS 5/2-102\(E-5\)](#).

An employer is permitted to enact a dress code or grooming policy in order to maintain workplace safety or food sanitation. [775 ILCS 5/2-102\(E-5\)](#).

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. [775 ILCS 5/2-102\(E\)](#).

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## Training and Apprenticeship Programs

Discrimination based on age in training and apprenticeship programs is prohibited.

It is unlawful "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." [775 ILCS 5/2-102\(F\)](#).

For purposes of this prohibition, "age" means between 18 and 39 years old.

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## Immigration-Related Practices

Certain immigration-related practices can be unlawful.

- It is unlawful for an employer to request 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.
  - It is unlawful for an employer to refuse to honor work authorization based upon the specific status or term of status that accompanies the authorization to work.
  - If the employer is participating in the E-Verify program, it cannot take adverse employment actions without following the procedures under that program. [775 ILCS 5/2-102\(G\)](#).
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## Reasonable Accommodations for Employees with Disabilities

Employers must make reasonable accommodations of known physical or mental limitations of otherwise qualified applicants or employees with disabilities, unless the employer can demonstrate that the accommodation would be prohibitively expensive or would unduly disrupt the ordinary conduct of business.

- Accommodations 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.

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## Reasonable Accommodation for Pregnancy

"Reasonable accommodation" means reasonable modifications or adjustments to the job application process or work environment or to the manner or circumstances under which the position desired or held is customarily performed, that enable an applicant or employee affected by pregnancy, childbirth, or medical or common conditions related to pregnancy or childbirth be considered for the functions of that position.

It is unlawful for an employer to deny employees reasonable accommodations related to pregnancy or childbirth.

- It is unlawful 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.
- 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.

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## Reasonable Accommodation for Pregnancy (Continued)

- An employer may not require an employee to take leave if another reasonable accommodation can be provided.
- An employer shall reinstate the employee to their original job or equivalent position upon the employee signifying their 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.
- Further, an employer may not deny employment opportunities or benefits or take adverse action because an individual needs a reasonable accommodation.

[775 ILCS 5/2-102\(I\) and \(J\)](#)

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## Arrest Record

It is unlawful "for any employer, employment agency or labor organization to inquire into or to use the fact of an arrest record . . . as a basis to refuse to hire, to segregate, 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." [775 ILCS 5/2-103](#).

"Arrest record" is defined by the Human Rights Act to include "(1) an arrest not leading to a conviction; (2) a juvenile record; or (3) criminal history record information ordered



expunged, sealed, or impounded under Section 5.2 of the Criminal Identification Act." [775 ILCS 5/1-103\(B-5\)](#).

The Human Rights Act does not prohibit State agencies from "requesting or utilizing sealed felony conviction information obtained from the Department of State Police under the provisions of Section 3 of the Criminal Identification Act or under other State or federal laws or regulations that require criminal background checks in evaluating the qualifications and character of an employee or a prospective employee." [775 ILCS 5/2-103](#).

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## Examples of Unlawful Discrimination

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

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

It is not "unlawful discrimination" when an employer takes any of the above-mentioned employment action(s) for another reason unrelated to an applicant's or employee's membership in a protected class.

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### Example 1: Question

Hassan is a State employee and his religion is Islam. Hassan takes a break every day at the same time to pray. Hassan's supervisor and entire team of co-workers know when this break is, and they do not schedule meetings during this time. A division in Hassan's agency has an opening for a supervisor, and this position would be a promotion for Hassan. Hassan has only been with the agency for one year and he knows others who are applying have more experience than he does, but he still applies. Hassan does not get the promotion, and instead the committee evaluating candidates gives the promotion to Clara because she has five more years of experience and great performance reviews.

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Based on the information provided here, is there evidence Hassan was discriminated against because of his religion when he did not receive the promotion?

- Yes
    - Incorrect, please try again.
  - No
    - Correct. This is probably not an example of unlawful discrimination.
- 

### Example 1: Answer

These facts do not suggest that Hassan's prayer breaks or the fact that he practices Islam was the reason any of the committee members did not select him. Unlawful discrimination occurs when an employer takes certain employment actions because of an applicant's or employee's actual or perceived membership in a protected class, including religion. However, it does not prevent an employer from making a hiring decision for another reason unrelated to an applicant's or employee's membership in a protected class. Although Hassan practices Islam and his supervisor and coworkers know his religion, it does not appear that the decision to award the promotion to Clara instead of Hassan was based on his religion, given the facts provided in the example. Instead, it appears that Hassan did not get the promotion because Clara was more qualified.

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### Example 2: Question

Jean is a 60-year-old woman who has been a State employee at Agency Q for the last 35 years. Many of Jean's coworkers are younger and have not been employed with Agency Q for nearly as long. Over the last year, Agency Q began using new computer applications to make work more efficient and implemented new IT-related policies. Almost everyone on Jean's team has been confused by the new applications and has sought out agency trainings to get a better understanding. However, when Jean tried to sign up for the trainings, her manager, the head of her division, denied the request. Jean noticed that her other younger coworkers had all been approved for these trainings. Jean emailed her manager asking for an explanation and stating that she thinks it is important that she attend the trainings. In response, her manager replied:

"Jean - Props to you for having so much enthusiasm! #GreatestGeneration. I appreciate you wanting to learn, but these fast-paced trainings will only confuse you more. I shouldn't have had you work with that application, I know it's been stressful. Don't sweat all this new stuff, I'm sure you'll be out of here soon. With that in mind, I am going to move you to another position that doesn't involve a lot of tech. Stop by on Monday and I'll give you the details."

During Jean's meeting with her manager on Monday, she learns the position is actually a demotion for her and involves less responsibility and a pay cut.

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Is this an example of unlawful discrimination?

- Yes
    - Correct. This is likely an example of discrimination on the basis of age.
  - No
    - Incorrect, please try again.
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### Example 2: Answer

Unlawful discrimination occurs when an employer refuses to hire, segregates, or acts 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 a protected class. One protected class is age. In this case, Jean's manager denied her training requests that were granted for other younger employees and demoted her. When Jean asked for an explanation, the manager focused on her age in the response by writing, "#GreatestGeneration," and telling Jean in a

condescending way that the trainings were "fast-paced" and made the assumption that the trainings would only "confuse her more" so she should be in a position that does not involve a lot of technology. The manager's response, and that fact that other younger employees were provided training and were not moved to different positions because they found the new applications confusing, point to the conclusion that Jean was denied the training opportunity and demoted because of her age.

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## Harassment

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### Harassment

Harassment in the workplace is prohibited.

**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, citizenship status or work authorization 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." [775 ILCS 5/2-101 \(E-1\)](#).

For purposes of this definition, the phrase "working environment" is not limited to a physical location an employee is assigned to perform their duties. [775 ILCS/2-101\(E-1\)](#).

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### Examples of Harassment

Examples of verbal or physical 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.
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### Example 3: Question

Jacob is an Orthodox Jew and wears a kippah, a brimless cap sometimes worn by observant Jewish males. Jacob's coworkers have never worked with an Orthodox Jew and think it is hilarious to mock him. They put napkins on their heads and pretend to speak Hebrew. They look up jokes on the internet about Jewish people and repeat them to Jacob. When Jacob started at the agency three months ago, he thought this behavior was just because he was new and his coworkers would get tired of it. However, the jokes and mockery have been

escalating, and the tone has been more aggressive and threatening. His coworkers have begun to greet each other using Jewish slurs on a daily basis to see Jacob's reaction. Jacob is very offended by this conduct, feels uneasy around his coworkers, and worries for his safety. On the days Jacob goes to work, he is tense and upset, and due to his coworkers' use of a threatening tone, he always has his guard up.

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Is Jacob being harassed?

- Yes
    - Correct. Jacob is being harassed.
  - No
    - Incorrect, please try again.
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### **Example 3: Answer**

Jacob's coworkers are engaging in harassment. The Illinois Human Rights Act defines harassment as any unwelcome conduct on the basis of an individual's actual or perceived religion, that has the purpose or effect of substantially interfering with the individual's work performance or creating an intimidating, hostile, or offensive working environment. Jacob's coworkers are repeatedly and frequently making offensive comments, using slurs, and making offensive jokes about his religion, and their tone is threatening and aggressive. This conduct is creating an intimidating, hostile, and offensive working environment for Jacob.

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### **Example 4: Question**

Antonio was hired two months ago at a State agency. Antonio identifies as bisexual but does not want to share his sexual orientation with any of his coworkers. Over the weekend, one of his coworkers saw Antonio out at a summer festival holding hands with a man and snapped a picture of the two of them. By Monday, the picture had been texted to several staff in Antonio's division. The following week, staff began coming up to Antonio and asking him if he was gay. Antonio said he did not like to discuss his personal life at work. Antonio works in a cubicle in an open space where he can hear his other coworkers when they are talking. Throughout the day, he can hear them talking about him and speculating about his sexual orientation and sexual experience and making jokes about him. Antonio can also hear their cell phones chiming and laughter and comments about graphic pictures being sent. Antonio repeated that his personal life is not their business and he just wants to get his work done, but the coworkers' behavior has not changed for several months. Antonio has started to look for other jobs because he cannot focus at work with his coworkers' constant comments and jokes about him. Antonio is also feeling more and more anxious inside and outside of work because of all the jokes and questions about his sexual orientation.

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Is Antonio being harassed?

- Yes
  - Correct. Antonio is being harassed.

- No
    - Incorrect, please try again.
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### Example 4: Answer

Antonio's coworkers are engaging in harassment. The Illinois Human Rights Act defines harassment as any unwelcome conduct on the basis of an individual's actual or perceived 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. The definition of sexual orientation includes actual or perceived heterosexuality, homosexuality, bisexuality, or gender-related identity, whether traditionally associated with the person's designated sex at birth. In this case, Antonio's coworkers perceive him to be gay and are harassing him based on that perceived sexual orientation. Antonio's coworkers are making unwelcome and frequent offensive jokes based on his perceived sexual orientation and that conduct is creating a hostile and offensive working environment.

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## Sexual Harassment

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### Sexual Harassment

Sexual harassment is defined by the Ethics Act and the Human Rights Act.

**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 their duties and does not require an employment relationship.

[5 ILCS 430/5-65\(b\)](#); [775 ILCS 5/2-101\(E\)](#).

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### Types of Sexual Harassment

- **Quid pro quo.** "Something for something." This type of harassment occurs when a manager or supervisor uses as a basis for employment decisions affecting a subordinate, whether that subordinate submitted or rejected unwelcome sexual advances, requests for sexual favors, or conduct of a sexual nature. For example, for a subordinate 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.** Hostile work environment sexual harassment 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 constitute hostile work environment sexual harassment, the conduct must be severe or pervasive.

## Severe or Pervasive Conduct

To determine the severity or pervasiveness, all circumstances should be considered, which may include the frequency of the discriminatory conduct; its severity; whether it was physically threatening or humiliating or a mere offensive utterance, offhand comment, or isolated incident; and whether it unreasonably interferes with an employee's work performance. To constitute harassment, the conduct must be objectively and subjectively offensive.

- Conduct is objectively offensive when a reasonable person would find it offensive.
- Conduct is subjectively offensive when the victim perceives it as offensive.

## Examples of Sexual Harassment

Sexual harassment is not limited to overt sexual advances and requests to engage in sexual acts. Many types of behavior and other acts 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 or dates;
- deliberate touching, leaning over, or cornering;
- sexual looks or gestures;
- letters, telephone calls, personal e-mails, texts, or other materials of a sexual nature;
- referring to someone as "sexy," "baby," "hot," "fine," "honey," "hunk," "doll," or a similar term;
- sexual teasing, jokes, remarks, or questions;
- whistling at someone;
- sexual comments, innuendos, or stories;
- turning work discussions to sexual topics;
- asking about sexual fantasies, preferences, or history;

## Examples of Sexual Harassment (Continued)

- sexual comments about a person's clothing, anatomy, or looks;
- kissing sounds, howling, and smacking lips;
- touching or rubbing oneself sexually in the presence of another person;
- standing close to or brushing up against a person;

- 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;
  - 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.
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## Understanding Sexual Harassment

**No gender is excluded.** Individuals can be a victims of sexual harassment regardless of gender identity or sexual orientation. Individuals who are cisgender, transgender, gender non-confirming, non-binary, gender fluid, gender expansive or have any other gender identity may be subjected to harassment. The harassing behavior may be by someone regardless of their gender or gender identity.

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

**The behavior is unwelcome.** Sexual harassment is conduct that is unwelcome, including conduct the victim regards as undesirable or offensive.

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

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## Non-State Employees

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

The Human Rights Act defines "nonemployee" as "a person who is not otherwise an employee of the employer and is directly performing services for the employer pursuant to a contract with that employer." This includes contractors and consultants. [775 ILCS 5/2-102\(A-10\) and \(D-5\)](#).

If a nonemployee, nonmanagerial employee, or nonsupervisory employee sexually harasses or harasses an employee or nonemployee, the employer will be responsible only 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 \(D-5\)](#).

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## Sexual Harassment Doesn't Have to be in Person

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

Examples of behaviors that can constitute unwelcome sexual conduct through email, cell phone or text, Internet or Intranet posting, online comments, blog posts, social media (such as Facebook, Twitter/X, LinkedIn, Instagram, YouTube, TikTok 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.

---

### Example 5: Question

Jim's boss, Marisol, is getting ready to complete his annual evaluation. Jim is a great employee and his work performance is excellent so Marisol thinks he will get a promotion if she recommends it. Marisol has also been interested in Jim romantically, so she asks him to go out on a date with her this Saturday night. Marisol can tell by Jim's facial expression that he does not like that idea, so she says, "if you aren't available, I'm afraid I won't be able to recommend that promotion." Jim does not want to go on a date with Marisol, so he tells her that he is not available. The next week Jim receives his annual evaluation, and it is his first negative evaluation he has ever received and he also learns that Marisol will not be recommending him for a promotion.

---

Was Jim sexually harassed?

- No, this is not an example of sexual harassment.
  - Incorrect, please try again.
- Yes, this is an example of quid pro quo sexual harassment.
  - Correct. This is an example of quid pro quo sexual harassment.
- Yes, this is an example of hostile work environment sexual harassment.
  - Incorrect, please try again.

---

### Example 5: Answer

Yes. Quid pro quo sexual harassment occurs when a manager or supervisor uses as a basis for employment decisions affecting a subordinate, whether that subordinate submitted or rejected unwelcome sexual advances, requests for sexual favors, or conduct of a sexual nature. In this case, when Joe did not submit to Marisol's advances to go on a date, he then received a negative performance evaluation and was not recommended for a promotion, even though his work performance is excellent.

Given that this was a single exchange where unwanted sexual advances were the basis of an employment decision, quid pro quo harassment is a better answer than hostile work environment sexual harassment. For hostile work environment sexual harassment, there must be severe or pervasive conduct that has the purpose or effect of substantially



interfering with an individual's work performance or creates an intimidating, hostile, or offensive working environment.

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### Example 6: Question

Felix just got back from a vacation in Hawaii. When he got back, he was surprised to see that several coworkers were standing around his cubicle laughing. When he asked what was going on, the coworkers stepped away and he saw a picture of himself in a bathing suit was on his desk. He recognized the picture as one he posted on Instagram during his vacation. His face turned red with anger and embarrassment, and he crumbled up the picture. His coworkers just laughed, and someone said, "lighten up, you look super hot!" During lunch, Felix went through his social media and removed all of his vacation photos and changed the settings to private. He felt so embarrassed and upset because he had not meant for his colleagues to see the photos and did not realize his coworkers were looking at his Instagram. His coworkers thought it was funny that he got so upset so they decided to make more copies of the photo and put them on his desk every morning with different graphic images of genitals drawn on or obscene sexual requests written on the photograph. Felix felt isolated and upset at work, to the extent that he could no longer focus on his assignments. After a few months of getting photos with graphic text and images on his desk, Felix could not bring himself to come into work during team meetings and has been using all of his sick and vacation time to call off from work. Felix started to see a counselor because he thinks he is depressed.

---

Is Felix being sexually harassed?

- Yes, this is an example of quid pro quo sexual harassment.
    - Incorrect, please try again.
  - Yes, this is an example of hostile work environment sexual harassment.
    - Correct. This is an example of hostile work environment sexual harassment.
  - No, this is not an example of sexual harassment.
    - Incorrect, please try again.
- 

### Example 6: Answer

Yes. Hostile work environment sexual harassment 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. In this case, Felix's coworkers' conduct is unwelcome and is creating an offensive and hostile working environment for Felix, which has interfered with his work performance. Their conduct is sexual in nature because it involves obscene sexual requests and graphic drawings next to a picture of Felix in his swimsuit. This was not an isolated incident and has been occurring every day for a few months. The conduct would be considered "pervasive" because of the frequency the unwelcome conduct of a sexual nature was occurring.

This is not an example of quid pro quo sexual harassment as the facts do not suggest that Felix's supervisors or someone with the ability to change the terms or conditions of Felix's employment was involved, nor that they conditioned any employment decisions on Felix's

submitting to unwanted sexual advances. Hostile work environment sexual harassment is the better answer.

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### **Example 7: Question**

Robert is an employee of a consulting firm that has a State contract to perform services for a State agency where Ashley works. When visiting the agency to perform work under the contract, Robert always flirts with Ashley by complimenting their body, asking for dates, and asking about their current dating situation. Ashley always declines and has told Robert that they are not interested. This has been going on several times a week for over a month and has caused Ashley to request a work schedule change so that they can avoid having to interact with Robert in the office.

---

Could Robert be sexually harassing Ashley?

- Yes, because Robert's sexual advances are unwelcome and pervasive and substantially interfering with Ashley's work performance.
    - Correct. Robert's sexual advances are unwelcome and pervasive and substantially interfering with Ashley's work performance.
  - No, because a contractor cannot harass a State employee.
    - Incorrect, please try again.
  - No, because Ashley has told Robert that they are not interested.
    - Incorrect, please try again.
- 

### **Example 7: Answer**

The correct answer is yes, because Robert's sexual advances could possibly be sexual harassment. Robert's conduct is unwelcome and occurring frequently for over a month. This conduct has led Ashley to request a work schedule change.

State contractors can engage in improper conduct, such as sexual harassment just like State employees.

Ashley has made it clear that Robert's sexual advances are unwelcome, but Robert has continued to make them. The fact that Robert has continued to make inappropriate comments knowing Ashley is not interested supports that Robert's behavior can be considered sexual harassment.

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## **Reporting**

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### **What to do when you witness harassment?**

There are many different variations of unlawful harassment and sexual harassment.

Some types of conduct are clearly harassment or sexual harassment, such as if a supervisor fires an employee when they do not engage in sexual conduct.

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

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

*If you are a witness to conduct you believe to be unlawful harassment or sexual harassment:*

1. You can tell the person to stop the unwelcome behavior.
  2. You must report it.
- 

## **What to do when you witness harassment?**

If the conduct is happening around you, but not directed toward you, that can create a hostile work environment. You should speak up if it is unwelcome, or if you think the conduct could interfere with another individual's work performance or could create an intimidating, hostile, or offensive working environment. For instance, if a group of colleagues gathers at a nearby co-worker's desk and shares inappropriate stories that others can overhear, you can tell the colleagues that others can hear their conversations and that the commentary should stop.

If conduct is directed toward someone else, but it makes you or another person uncomfortable, you should also speak up. For instance, if you've noticed that a colleague's "compliments" make others uncomfortable, you can bring it to their attention.

If you experience or witness harassment or sexual harassment, you must report the incident or conduct. The following slides discuss the options you have for reporting.

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## **Reporting Allegations of Unlawful Discrimination, Harassment, and/or Sexual Harassment**

Any employee who witnesses, is subjected to, or becomes aware of unlawful discrimination, harassment, and/or sexual harassment must immediately report the incident. **State employees are required to report alleged misconduct to their agency's Ethics Officer and/or the Office of Executive Inspector General by [Executive Order 16-04](#).** The following slides will further discuss these reporting options, as well as additional options for reporting misconduct.

Sometimes it is difficult to know whether the conduct that makes you feel uncomfortable is unlawful discrimination, harassment, or sexual harassment. Employees are encouraged to report inappropriate conduct so that it can be addressed.

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## **Reporting Allegations of Unlawful Discrimination, Harassment, and/or Sexual Harassment (Continued)**

**There are three main avenues for reporting:**

1. Within your Agency - Ethics Officer, Supervisor, EEO/AA Officer, or Human Resources
2. Illinois Department of Human Rights ("IDHR")

### 3. Office of Executive Inspector General ("OEIG")

While you must report alleged misconduct to your [Ethics Officer](#) or the OEIG, the reporting options above are not mutually exclusive, and more than one may be pursued. Please be advised that these various options trigger different procedures and offer different rights and remedies to a State employee who makes an allegation.

[Executive Order 18-02](#) created a Chief Compliance Office to provide oversight to the agencies to ensure that allegations of sexual harassment are investigated and that appropriate disciplinary action is taken.

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## Reporting an Allegation to your Ethics Officer

[Executive Order 16-04](#) requires that you report misconduct to your Ethics Officer or the OEIG (or both; additional information on reporting to the OEIG will be discussed in later slides). Misconduct includes allegations of discrimination, harassment, and/or sexual harassment.

Your Ethics Officer:

- Is available to discuss any concerns about ethics violations you may have.
  - Can help interpret the Ethics Act for you as well as your agency policies that prohibit discrimination, harassment, and sexual harassment.
  - 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.
  - Has an obligation to promptly notify the OEIG of any allegations of misconduct after receiving such information.
- 

## Reporting an Allegation to your Supervisor

In addition to reporting to your Ethics Officer or the OEIG, you may choose to directly report an allegation of discrimination, harassment, and/or sexual harassment to a supervisor.

Supervisors:

- Are required to take appropriate action upon being notified of sexual harassment, whether or not a formal complaint is made.
- Will know the internal practices of your agency and will be in a position to effect change and help you navigate your agency's internal complaint process.
- May seek assistance from or report the allegation to the agency Ethics Officer, EEO Officer, or Human Resources.
- Should only share information as required by law or in order to effect necessary management action to address your allegation.

You can report an allegation to any supervisor, not just your own supervisor.

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## Reporting an Allegation to a Supervisor (Continued)

You may choose to report to a supervisor because you are seeking a solution from your agency's management to swiftly resolve your allegation.

For instance, a hostile work environment generally involves a series of events rather than a single event. If you are aware of conduct that, if it continues, may interfere with your or others' work performance or may create an intimidating, hostile, or offensive working environment, a supervisor can be an important resource in addressing it.

You also may choose to discuss your allegation with a supervisor for help determining how to pursue the other reporting options available.

If an allegation of discrimination, harassment, and/or 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 may choose a different reporting option.

---

## Reporting an Allegation to your EEO/AA Officer

Your agency's Equal Opportunity or Affirmative Action Officer is another option within your agency for reporting an allegation of discrimination, harassment, and/or sexual harassment. Remember, this reporting would be in addition to reporting to your Ethics Officer or the OEIG.

Your EEO/AA Officer:

- Will know the internal practices of your agency and will be in a position to help you navigate your agency's internal complaint process.
- 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.
- Is required to immediately report all allegations of sexual harassment received, either directly or indirectly, to the agency's Ethics Officer.

Some agency's internal policies ask employees to report allegations directly to the EEO Officer. More information on internal policies, if this is applicable to you, can be found in your employee handbook.

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## Reporting an Allegation to the Department of Human Rights

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

One of IDHR's important roles is to investigate "charges" - or formal complaints - of discrimination in employment, including allegations of harassment and sexual harassment.

Individuals can report an allegation to IDHR by filing a charge **within 300 days of the alleged violation**.

The IDHR process:

- is public - an employee who chooses to pursue this option may not do so anonymously;
- requires involvement by the person who filed the complaint; and
- depending on the allegation, some individuals may choose to pursue their complaints with help from an attorney.

## Contacting IDHR

The IDHR website is [dhr.illinois.gov](http://dhr.illinois.gov).

It provides additional information about discrimination and harassment, filing a charge, the process for investigating and resolving an allegation, and other frequently asked questions. Please consult IDHR's website for any process changes in response to the COVID-19 pandemic.

The IDHR has the following offices:

### Chicago

555 West Monroe, Ste 700  
Chicago, IL 60661  
312-814-6200  
866-740-3953 (TTY)

### Springfield

524 S. 2nd Street, Ste  
300  
Springfield, IL 62701  
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 reports, can be found on IDHR's website.

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## The IDHR Helpline

IDHR operates a helpline for reporting sexual harassment and discrimination.

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 IDHR permission.
- 

## The IDHR Helpline (Continued)

The helpline number is 1-877-236-7703.

There is also a website for reporting:

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

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

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## Reporting an Allegation to the Office of Executive Inspector General

You may choose to directly report misconduct to the OEIG.

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 regional development authorities, 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.**

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## **Reporting an Allegation to the Office of Executive Inspector General (Continued)**

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;
  - violations of the Ethics Act, including the prohibition on sexual harassment;
  - allegations of unlawful discrimination and harassment; and
  - violations of other laws or rules.
- 

## **Filing a Complaint with the OEIG**

A complaint may be filed with the OEIG by:

- completing a form online at <https://oeig.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; or
  - contacting the OEIG by telecommunications device for the disabled (TTY) at (888) 261-2734.
- 

## **Filing a Complaint with the OEIG (Continued)**

The OEIG may accept complaints that are filed anonymously.

If filing a complaint with the OEIG:

- You must provide sufficient detail about the allegation in order for an investigation to be initiated.
- The complaint must be filed within a year of the events at issue, ". . . except where there is reasonable cause to believe that fraudulent concealment has occurred." 5 ILCS 430/20-20.
- You should have a reasonable belief that the allegation is true.

- The complaint must relate to conduct of an employee or officer of an entity under the OEIG's jurisdiction, or conduct of a person or entity that does business with an entity under the OEIG's jurisdiction.

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](#).

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## The OEIG Process

After filing a complaint with the OEIG:

- You will typically receive a letter that identifies a file ID number for your complaint.
  - The complaint will be reviewed by the OEIG.
  - The OEIG may investigate, refer the matter to another agency to investigate, or decline to investigate the complaint.
  - If the OEIG conducts an investigation and determines there was a reasonable basis to believe that wrongdoing occurred, the OEIG issues a "founded summary report."
  - The founded summary report is then sent to the appropriate ultimate jurisdictional authority and to the head of each State agency affected by or involved in the investigation. The ultimate jurisdictional authority or agency head has 20 days to respond to the OEIG with a description of any corrective or disciplinary action to be taken.
- 

## The OEIG Process (Continued)

- The Executive Ethics Commission (EEC) is required to publish OEIG founded summary reports and responses if the investigation resulted in a suspension of at least three days or termination, and may choose to publish other OEIG founded summary reports. The EEC is an independent nine-member commission charged with promoting ethics in public service and ensuring that the State's business is conducted with efficiency, transparency, fairness, and integrity.
  - If the OEIG has reasonable cause to believe that a violation of the Ethics Act has occurred, the OEIG also may ask the Illinois Attorney General to file a complaint with the EEC.
  - If a complaint is filed with the EEC and it decides that a violation of the Ethics Act occurred, the EEC may impose an administrative fine or take other action to stop the unlawful activity.
- 

## Cooperation with OEIG Investigations

**All employees are expected to cooperate with OEIG investigations.**

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



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

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### **Example 8: Question**

George immigrated to the United States fifteen years ago and learned English as a second language. George believes that John, a non-supervisory employee who was born and raised in the United States and often mimics his accent, is harassing him on the basis of his national origin. George meets with his Ethics Officer to discuss options for reporting the conduct.

George would like to keep his complaint confidential. George wants an investigation to be conducted and hopes that John will be disciplined if the investigation finds that harassment did occur. George is also concerned that John may harass other employees and wants to quickly ensure that no other employees face the same conduct he has experienced, whether or not it rises to the level of harassment.

---

Where else, besides the Ethics Officer, could George report their allegation to meet these goals?

- George's supervisor.
    - Not the best choice, please try again.
  - Office of the Executive Inspector General (OEIG)
    - Not the best choice, please try again.
  - Illinois Department of Human Rights
    - Not the best choice, please try again.
  - Both George's supervisor and the OEIG
    - Correct. George could report his allegations to both his supervisor and the OEIG.
- 

### **Example 8: Answer**

The correct answer is both George's supervisor and the OEIG.

George's supervisor can immediately work with agency management to ensure a harassment-free workplace. George's supervisor should disclose no more information than is needed to investigate and to address the problem. Further, George could also report this to another supervisor if he is uncomfortable reporting the allegation to his own supervisor.

The OEIG operates outside the agency and conducts investigations in a confidential manner, to the extent possible under law. Ethics Officers have an obligation to promptly notify the OEIG of any allegations of misconduct after receiving such information. Even if George does not choose to report the allegation to the OEIG directly, the Ethics Officer is obligated to do so. If the OEIG determines that the allegations are founded, it will issue a founded report that recommends discipline or other agency action. The OEIG's investigative process will take additional time, and may not immediately address workplace conditions. If an immediate resolution is George's most important goal, it may make most sense for George to report his allegation to a supervisor.

While complaints filed with IDHR are not confidential, information provided through the State of Illinois Sexual Harassment and Discrimination Helpline is confidential.

George has already fulfilled their obligation under Executive Order 16-04 by reporting the allegation to his Ethics Officer. Reporting to the OEIG would also fulfill this obligation.

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## Retaliation and Consequences

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### Information About Retaliation

Retaliation against individuals who report discrimination, harassment, and/or sexual harassment, or who participate in investigations and other proceedings regarding those matters, is strictly prohibited by the Ethics Act ([5 ILCS 430/5-10](#)), the Human Rights Act ([775 ILCS 5/6-101](#)), and the Illinois Whistleblower Act ([740 ILCS 174/15-20.2](#)).

Retaliatory action includes reprimand, discharge, suspension, demotion, denial of promotion or transfer, or any other 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.

In addition, if you or another employee experiences retaliation after reporting discrimination, harassment, or sexual harassment, the retaliatory conduct can be reported to a supervisor, Ethics Officer, IDHR, and the OEIG in the same manner that discrimination, harassment, and sexual harassment are reported.

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### Retaliation Under the Ethics Act

Under the Ethics Act, an officer, member, State employee, and/or State agency cannot take retaliatory action against a State employee who:

- 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;
- provides information or testifies in connection with an investigation, hearing, or other inquiry; or
- assists or participates in a proceeding to enforce the Ethics Act ([5 ILCS 430/15-10 \(1-3\)](#)).

The OEIG can investigate allegations of retaliation and recommend discipline, up to and including termination. Anyone who intentionally violates this prohibition on retaliation is guilty of a misdemeanor and is subject to discipline or discharge.

---

### Retaliation Under the Human Rights Act

Under the 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 prohibited by the Human Rights Act, including 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.

It is also unlawful to retaliate against a person for requesting, attempting to request, or using a reasonable accommodation allowed by the Human Rights Act.

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## Retaliation Under the Whistleblower Act

Under the 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.

If an employer retaliates against an employee in violation of the 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. It is a Class A misdemeanor to violate the Whistleblower Act.

---

## Example 9: Question

Anu is newly hired to work at a State agency. During her second week, her supervisor says, "I wish you wore more dresses like the one from your interview," and then gives her a quick wink. Anu is very offended and tells her supervisor that comments like that are inappropriate. The supervisor apologizes and in the weeks that follow does not make any other comments about her appearance. During these weeks Anu is excelling at work and receiving positive feedback from her team about her contributions. Although work is going well, Anu is still upset by her supervisor's comment and decides to file a formal sexual harassment complaint with the Illinois Department of Human Rights. Her supervisor is offended to learn about the Illinois Human Rights complaint and demotes Anu to a different position.

---

Is Anu's supervisor's conduct retaliatory?

- Yes
    - Correct. The supervisor's conduct was retaliatory.
  - No
    - Incorrect. Try again.
- 

## Example 9: Answer

Yes. Retaliation occurs when there is a 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 certain protected activities. An example of a protected activity is disclosing or reporting conduct that a State

employee reasonably believes to be in violation of a law, rule, or regulation. Here, Anu reasonably believed that her supervisor telling her to wear dresses was sexual harassment and reported the conduct. After hearing about the complaint, her supervisor became offended and demoted her. The demotion appears to be solely related to Anu's complaint because Anu was doing well at work and receiving positive feedback; therefore, nothing shows the supervisor would have taken the same action had Anu not filed the complaint.

Note that in order to be retaliatory conduct, it is not required that the activity the employee disclosed is ultimately found to in fact be a violation of law or policy. For example, in this case, the supervisor's one comment about Anu's dress, without more, may not arise to the level of unlawful sexual harassment. However, Anu could still have reasonably believed the conduct violated a law, rule, or regulation, and the key facts here are how the supervisor responded to an employee exercising their right to report the conduct. In this case, the supervisor took the retaliatory action of demoting the employee.

---

## Consequences Under the Ethics Act

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 **fines or penalties** imposed by a State or federal agency or court. 5 ILCS 430/50-5(G).

Although "harassment" and "unlawful discrimination" are not specific violations of the Ethics Act, there are serious consequences for engaging in unlawful discrimination and harassment. For example, the OEIG does investigate allegations of unlawful discrimination and harassment. The results of these investigations can lead to discipline or discharge for violating the law or your agency's policies.

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**. [5 ILCS 430/20-70](#).

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## Consequences for False Reports

False reports are prohibited.

The EEC may levy a **fine of up to \$5,000** against any person who intentionally makes a false, frivolous, or bad faith allegation, or who intentionally obstructs or interferes in an OEIG investigation. [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**. [5 ILCS 430/50-5\(D\)](#).

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## Additional Consequences

There are serious consequences for engaging in unlawful discrimination, harassment, and sexual harassment, which may include being disciplined or having your employment terminated for violating the law or your agency's policies.

Engaging in unlawful discrimination, harassment, sexual harassment, and/or retaliation can also subject you to proceedings before the Human Rights Commission or state or federal courts. Individuals can file a state or federal charge against the person or entity that engaged in misconduct, and if they prevail may be entitled to one or more of the following remedies:

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

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## Reminder About the Use of State Resources

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

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

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

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

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## Completion & Certification

### Thank you for completing your annual Harassment and Discrimination Prevention Training.

I certify that I have carefully read and reviewed the content of, and completed, the 2024 Harassment & 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 appointment/employment, administrative fines, and possible criminal prosecution, depending on the nature of the violation.

I certify and Acknowledge the above statement.

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Printed Name: \_\_\_\_\_ Signature: \_\_\_\_\_

Date: \_\_\_\_\_