

Illinois: Sexual Harassment

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Contact hours: 1

Cost: \$12

This course meets the requirement for 1 hour of training in sexual harassment for healthcare workers and others in Illinois.



Summary

Sexual harassment on the job has come to prominence in recent years. Many accounts, including the crimes of Harvey Weinstein and Jeffrey Epstein, have brought formerly hidden harassment incidents to public consciousness. The #MeToo movement has responded to allow people the freedom to reveal their experiences of harassment and thus inform the public of the commonplace nature of the events. With public awareness, it is expected that sexual harassment can be reduced and, it is hoped, eliminated.

Criteria for Successful Completion

A score of 80% or higher on the post test, a completed evaluation form, and payment where required. No partial credit will be awarded.

Course Objectives

When you have finished this course, you will be able to:

1. Name 4 circumstances in which sexual harassment can occur according to the Equal Employment Opportunity Commission.
2. Describe 3 conditions that define sexual harassment according to the Illinois Human Rights Act.
3. Name 4 responsibilities of employers regarding sexual harassment in Illinois.
4. Describe the 2 types of sexual harassment.
5. Name 4 actions to take if you are sexually harassed.
6. Describe 4 ways to report sexual harassment in Illinois.

Instructions for Mail Order

Once you've finished studying the course material:

1. Record your test answers on the answer sheet.
2. Complete the course evaluation.
3. Complete your registration and payment*.

Mail the completed forms with your payment to:

ATrain Education, Inc

5171 Ridgewood Rd

Willits, CA 95490

*Check or money order payable to ATrain Education, Inc (or enter your credit card information on the registration form).

When we receive your order, we will grade your test, process your payment, and email a copy of your certificate to the email address you provide.

If you would like a fancy copy of your certificate (suitable for framing), please add \$8.50 to your payment.

Questions? Call 707 459-1315 (Pacific Time) or email (info@ATrainCeU.com).

1. A Brief History of Harassment

I think that a lot of women in our society . . . feel self-conscious or question their own merit . . . Our culture places so much emphasis on the sexualization of women's bodies.

College Professor, 40+, Education

Keplinger et al., 2019

Approximately eighty percent of women in the United States report experiencing sexual harassment in the workplace, with one study showing that 50% of women had been harassed within the last year alone. The negative effects of sexual harassment are well known and include negative mood, eating disorders, alcohol abuse, job withdrawal, greater stress, greater self-doubt, lower self-esteem, and lower overall mental health. Moreover, the effects of harassment can be seen for nearly a decade following a harassing event. Sexual harassment has largely been conceptualized as a women's issue; that is not to say that men are not harassed, but they are harassed at a lower frequency and experience fewer negative psychological outcomes of sexual harassment compared to women (Keplinger et al., 2019).

Sexual harassment on the job has had a long history in the United States—mostly against women. In the early days of the United States, many slaves were subjected to sexual harassment, **coercion** (persuading someone to do something by threat or force), and rape because they were considered property and laws did not protect them. Commonly, it was said that slave women were “promiscuous,” that they did not fight hard enough against their attackers, and that they were responsible for the assaults against them (NOW, 2013).

After the Civil War, Esther Vaughn, a dairymaid and housekeeper, was fired from her job when she became pregnant by her employer. She gave birth alone and was found living in poverty with her dead infant. Vaughn was charged with infanticide and sentenced to death. Susan B. Anthony, an American writer, lecturer, abolitionist, and advocate of a woman's right to vote, and her colleague Elizabeth Cady Stanton, fought for the freedom of Esther Vaughn, who was later pardoned by the Governor of Pennsylvania (NOW, 2013).

In 1887 a report called *Women Wage-Workers* revealed what women faced as household servants: “Household service has become synonymous with the worst degradation that comes to woman.” The report also described the sexual abuse of women who worked in factories, some in the garment industry. Upton Sinclair, in his 1905 expose *The Jungle*, compared the state of women working in the meatpacking plants to “wage slavery” and “chattel slavery” (Siegal, 2003).

The Civil Rights Act of 1964

I've had bosses come on to me, and you don't want to get fired. When bosses hit on me, or flirt with me, I just ignore it.

Lawyer, 60+, Defense Law

Keplinger et al., 2019

The Civil Rights Act, this nation's benchmark civil rights legislation, was signed into law on July 2, 1964 by President Lyndon B. Johnson. The Act prohibits discrimination on the basis of race, color, religion, sex, or national origin, and certain provisions forbid discrimination on the basis of sex and race in hiring, promoting, and firing. The Civil Rights Act was eventually expanded by Congress to strengthen enforcement of these fundamental civil rights (DOL, 2012).

Title VII of the Civil Rights Act prohibits employment practices that discriminate because of race, color, national origin, sex (including pregnancy), and religion. Sexual harassment is a form of sex discrimination that violates Title VII. In addition, Title VII allows for lawsuits alleging harassment based on a protected characteristic, where the evidence demonstrates unwanted sexual advances, requests for sexual favors, or conduct that is sufficiently severe or pervasive to alter the conditions of employment and create an abusive or hostile work environment (DOJ, 2018). In 1991 laws were passed that permitted compensatory damages to be awarded in cases of sexual harassment that violate Title VII (Siegel, 2003).

It was not until 1974 that the term *sexual harassment* was coined by Cornell University activists. Awareness of the problem has grown through high-profile cases as well as continued lobbying by activists seeking to convince the courts that sexual harassment is "discrimination on the basis of sex." In 1991 Anita Hill accused Supreme Court nominee Clarence Thomas of sexual harassment during the years they worked together. She testified at Thomas' Senate hearings and, although he was later confirmed as a Supreme Court Justice, much attention was brought to bear on the issue (Keplinger et al., 2019).

Over the last several years, revelations about the sexual mistreatment of women have stunned the world. According to analysis by *The New York Times*, the defeat of Hillary Clinton and election of Donald Trump spurred a women's movement in the United States beginning in November 2016 and resulting in protests across the country, including the largest single-day protest in history on January 21, 2017 (Keplinger et al., 2019).

The same year, multiple allegations of sexual harassment and coercion were levelled against movie mogul Harvey Weinstein. The **#Me Too movement** was born from these cases with the message that "men in positions of power should not—and will not—be allowed to get away with using their position to harass and assault." The movement led to many high-profile and powerful people losing their jobs. Women have become united against sexual assault and harassment, making these issues the hallmark of the current women's movement. The #MeToo movement has become the largest social movement related to sexual harassment in history, with 12 million Facebook posts and 15 million "impressions" (the number of times the content was displayed) within 48 hours of its inception (Keplinger et al., 2019).

The #MeToo Movement is finally making it so that people are comfortable enough to say it out loud, because they are understanding that it was wrong and that it wasn't their fault.

Sales Manager, 30+, Marketing

Keplinger et al., 2019

EEOC Policy Guidance

The U.S. Equal Employment Opportunity Commission issued guidance on "current issues of sexual harassment" in March 1990. Its purpose was to define sexual harassment and establish employer liability in light of "recent cases." Specifically, it addressed the following:

- Determining whether sexual conduct is "unwelcome"
- Evaluating evidence of harassment
- Determining whether a work environment is sexually "hostile"
- Holding employers liable for sexual harassment by supervisors
- Evaluating preventive and remedial action taken in response to claims of sexual harassment

The EEOC went on to review court decisions and spell out the rationale for each of the above items. It continues to set the standards to be followed in instances of sexual harassment to the present day (EEOC, 1990).

Federal Law in the Twenty-first Century

When a high-profile journalist approached Emily on Twitter with an offer of work, she recalls being "a bit star-struck." Their direct messages and email conversations could be "very flirtatious," but Emily continued talking to him as "I thought it might lead to something more, workwise."

It wasn't long before "flirtatious" became something else, however. "There was a demanding level of banter to keep up with, and I found it really stressful," Emily said. "Then one evening he suggested sending me a picture of himself naked from his workplace." Emily told him no, but her refusal appeared to sour the relationship.

"It all became very awkward," she explained. "He got very defensive. He ended up being quite hostile, though I apologized over and over as though it had been my fault. The more I tried to take responsibility, the worse it became. Then the work stopped coming. I felt like I'd failed some kind of test."

Norris & Torrisi, 2020

Sexual harassment involves unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when a person must submit as a condition of a job, pay, or career, or when submission to or rejection of the conduct affects employment decisions regarding that person. It is sexual harassment when the conduct unreasonably interferes with the person's work performance or creates an intimidating, hostile, or offensive environment (SAPRO, 2017).

According to the federal Equal Opportunity Employment Commission (EEOC), sexual harassment can occur in a variety of circumstances, including but not limited to the following:

- The victim as well as the harasser may be a woman or a man, and the harasser's conduct must be unwelcome. The victim does not have to be of the opposite sex.
- The harasser can be the victim's supervisor, an agent of the employer, a supervisor in another area, a co-worker, or a non-employee.
- The victim does not have to be the person harassed but could be anyone affected by the offensive conduct.
- Unlawful sexual harassment may occur without economic injury to or discharge of the victim.
- It is helpful for the victim to directly inform the harasser that the conduct is unwelcome and must stop. The victim should use any employer complaint mechanism or grievance system available. (EEOC, 2002)

The U.S. Supreme Court ruled in June 2020 that the 1964 Civil Rights Act protects lesbian, gay, bisexual, transgender, and queer (LGBTQ) employees from discrimination based on sex. In a 6–3 vote, the Justices ruled that LGBTQ people are protected by Title VII. Justice Gorsuch based his opinion on the 1964 statute's ban on discrimination because of sex:

It is impossible to discriminate against a person for being homosexual or transgender without discriminating based on sex. (JDSupra, 2020)

An employer who fires an individual for being homosexual or transgender fires that person for traits or actions it would not have questioned in members of a different sex. Sex plays a necessary and undisguisable role in the decision—exactly what Title VII forbids.

Prevention is the best tool to eliminate sexual harassment in the workplace. Employers are encouraged to take steps necessary to prevent sexual harassment from occurring. They should clearly communicate to employees that sexual harassment will not be tolerated. They can do so by establishing an effective complaint or grievance process and taking immediate and appropriate action when an employee complains (EEOC, 2002).

2. Illinois Law on Harassment

I think that there's still a really significant component in our culture that hasn't shifted, and maybe has become more entrenched, more dug in, about relationships between men and women in the workplace.

College Professor, 40+

Keplinger et al., 2019

Illinois Human Rights Act (IHRA)

All people in Illinois have the right to be free of sexual harassment in the workplace. Sexual harassment is a violation of the Civil Rights Act and is prohibited by the Illinois Human Rights Act (IHRA), section 775 ILCS 5/2-102(D).

According to the IHRA, *sexual harassment* means any unwelcome sexual advances or requests for sexual favors or any conduct of a sexual nature, when

- Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment,
- Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or
- The conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile or offensive "working environment."* (IHRA, 2019b)

*For purposes of this definition, the phrase working environment is not limited to a physical location an employee is assigned to, to perform his or her duties and does not require an employment relationship (WTA, 2020).

Workplace Transparency Act

[Material in this section is based on 820 ILCS 96/.]

The Illinois Legislature enacted the Workplace Transparency Act (WTA), an expansive piece of legislation designed to prevent all forms of harassment and discrimination in the workplace; it became effective January 1, 2020. Although passed as a reaction to the #MeToo movement, the WTA covers more than just sexual harassment. The WTA expanded the definition of **discrimination** under the Illinois Human Rights Act to make clear that it prohibits adverse employment actions based on both a claimant's actual and *perceived* protected characteristic. The WTA also expanded the Human Rights Act's protections so that they apply to nonemployees, including contractors, vendors, and consultants. Employers may be held liable for workplace discrimination or harassment claimed by these nonemployees (Duane Morris, 2020).

The WTA also requires that employers using arbitration agreements make clear that claims of harassment and discrimination are excluded from arbitration requirements. . . . Employers who use nondisclosure or non-disparagement clauses in any agreements with employees—including those found in severance or separation agreements, restrictive covenant agreements, and settlement agreements—must ensure that they reflect additional new requirements provided in the WTA. These requirements generally bar any prohibitions that prevent an employee or former employee from reporting allegations of unlawful conduct to any government agency or otherwise require an employee or former employee to maintain confidentiality regarding unlawful employment practices (Duane Morris, 2020).

3. Interpretations and Additions to Illinois Law

He's driving me back into the city and he says, under his breath, "I'll bet you're really nasty in the bedroom!" and I said, "Did I hear that right?"

"Whips and chains and high-heeled boots!" he went on, and I said to myself, "Did I really just hear that?"

I wanted to dive roll out of the car—but instead I pretended I didn't hear it. I just totally dismissed it and changed the subject.

Back in the office I said to a friend, "OMG, [person's name] just said [and I repeated his remarks]." She just said, "Yeah."

He is a client. I can't report it to my HR. I don't have anyone I can really go to.

Top-level Executive, 40+, Public Relations

Keplinger et al., 2019

Employer Responsibility

It is the responsibility of the employer to create a place of employment that is free from sexual harassment. Further, it's their responsibility to investigate and eliminate the harassment.

It is considered a civil rights violation for any employer, employee, agent of any employer, employment agency, or labor organization to engage in sexual harassment of employees *and non-employees* such as vendors, independent contractors, and delivery people. **Non-employees can also violate sexual harassment laws against employees** (WTA, 2019).

Employers (in addition to the harasser) are liable for sexual harassment by their management personnel whether or not they are aware of the harassment.

The employer (in addition to the harasser) can also be held liable for harassment by nonmanagerial and nonsupervisory employees, including non-employees such as independent contractors and consultants. The Workplace Transparency Act, however, does not hold the employer liable for harassment by nonmanagerial and nonsupervisory employees unless the employer becomes aware of the conduct and fails to take reasonable corrective measures (WTA, 2019).

"It is the General Assembly's intent to encourage employers to adopt and actively implement policies to ensure their workplaces are safe for employees to report concerns about sexual harassment without fear of retaliation, loss of status, or loss of promotional opportunities" (IHRA, section 2-109, 2019b).

Illinois Governor J.B. Pritzker signed Public Act 101-0221 into law in August 2019, requiring all Illinois employers who have one or more employees to provide sexual harassment training to their employees by December 31, 2020 and every year thereafter. All employers who have employees working in Illinois must abide by this law. By December 31, 2020, employers must have trained all their employees (IDHR, 2020a).

Any employees who work or will work in Illinois must be trained, regardless of whether the employer is based in Illinois. If an employee is based elsewhere but regularly interacts with other employees in Illinois, even if they are not physically present in Illinois, they should be trained. All employees regardless of their status (i.e., short-term, part-time, or intern) must be trained (IDHR, 2020A).

Although employers are not required to train independent contractors, it is strongly advised that independent contractors receive training if they are working on-site at an employer's workplace or interact with the employer's staff (IDHR, 2020A).

Employers are encouraged to retrain their new employees, even if the employee received the required training at a prior place of employment. The employer is required to ensure that the training is compliant with the IHRA. Employers must independently retain their own records to show that all employees received the required sexual harassment prevention training. If the employer is unable to obtain the proper documentation, the employee must be retrained (IDHR, 2020a).

Public Spaces: Restaurants and Bars

At lunch, it was the three of us at the table, and [our customer] asked us, "Where are you staying? . . . That's like a girls' pajama party, you all staying at the same place! What do you wear to your girls' pajama party?"

You want to nip it in the bud early so that you don't lose a customer over it—you don't lose an opportunity over it—and you don't get put in a position where you have to really shut it down.

I no longer work with that customer anymore, because I just don't want to have to deal with him. Is that fair? No, but life is too short.

Top level executive, 40+, tech industry

Keplinger et al., 2019

In addition to the state's required training for all places of employment, restaurants and bars are required to provide supplemental sexual harassment prevention training that complies with Section 2-110 of the Illinois Human Rights Act (IHRA) (IDHR, 2020b). This is in addition to the training required of all employees under Sections 2-109.

Every restaurant and bar operating in the State of Illinois must have a sexual harassment policy provided to all employees, in writing, within the first calendar week of employment. Restaurants and bars are required to develop a supplemental model training program in consultation with industry professionals specifically aimed at the prevention of sexual harassment in the restaurant and bar industry. The training must include specific conduct, activities or videos related to that industry, an explanation of manager liability, and English and Spanish language options (Illinois General Assembly, 2020).

It is the responsibility of every employer to maintain a workplace free of sexual harassment. It is the responsibility of all employers in the State of Illinois to adopt and actively implement policies to ensure their workplaces are safe for employees to report concerns without fear of retaliation, loss of status, or loss of promotional opportunities. All employers must make it clear that sexual harassment will not be tolerated. All employers who have employees working in the State of Illinois must:

1. Use the model sexual harassment prevention training program developed by the Department or develop their own sexual harassment training program that equals or exceeds the minimum standards outlined in subsection B of the Workplace Transparency Act.
2. The training must be carried out for all employees by December 31, 2020 and every year thereafter.
3. Have a written policy that clearly defines sexual harassment and what the penalties are for committing it.
4. If the employer does not comply, the Department shall petition the Human Rights Commission for entry of an order imposing a civil penalty against the employer pursuant to Section 8-109.1. The civil penalty shall be paid into the Department of Human Rights Training and Development Fund. (WTA, 2019)

Harassment Because of Sexual Orientation

"The Illinois Human Rights Act prohibits discrimination based on someone's actual or perceived sexual orientation, which is defined to include heterosexuality, homosexuality, bisexuality, and gender-related identity," according to the Illinois Bar Association (ISBA, 2020). Both the victim and the harasser can be a woman or a man, and the victim and harasser can be the same sex.

It is unlawful to harass a person because of that person's sex. Harassment can include unwelcome sexual advances, requests for sexual favors, and other verbal or physical harassment of a sexual nature. Harassment does not have to be of a sexual nature, however, and can include offensive remarks about a person's sex. For example, it is illegal to harass a woman by making offensive comments about women in general (EEOC, n.d.).

Although the law does not prohibit simple teasing, offhand comments, or isolated incidents that are not very serious, harassment is illegal when it is so frequent or severe that it creates a hostile or offensive work environment or when it results in an adverse employment decision (such as the victim's being fired or demoted) (EEOC, n.d.).

Sexually harassing conduct violates the law if the harassing conduct is unwelcome and is based on the victim's protected status, i.e., sex (including pregnancy). Sexual behavior becomes unlawful when it is not welcome or any time it becomes unwelcome. The conduct must be subjectively abusive to the person affected and objectively severe and pervasive enough to create a work environment that a reasonable person would find hostile or abusive (DOL, 2012).

Whether an instance or a pattern of harassing conduct is severe or pervasive is determined on a case-by-case basis, with consideration paid to the frequency and severity of the unwelcome conduct. The following questions should be asked:

- Was the conduct physically threatening or humiliating or a mere offensive utterance?
- Did the conduct unreasonably interfere with work performance or have an adverse effect on the psychological well-being of the employee?
- Was the harasser a superior within the organization?
- Each factor is considered, but none are required or dispositive. Hostile work environment cases are often difficult to recognize, because the particular facts of each situation determine whether offensive conduct has crossed the line from "ordinary tribulations of the workplace, such as the sporadic use of abusive language. . . and occasional teasing," to unlawful harassment (DOL, 2012).

4. Types of Unlawful Harassment

Quid Pro Quo

Quid pro quo harassment (this for that, or something for something) generally arises when a tangible employment decision is based upon the employee's acceptance or rejection of unwelcome sexual advances or requests for sexual favors. This kind of harassment is generally committed by someone who can effectively make or recommend formal employment decisions (such as termination, demotion, or denial of promotion) that will affect the victim. It is sexual harassment to make any part of a job (such as wages or promotions) conditional on a sexual or social relationship (Illinois Sexual Harassment Helpline, 2020). The two conditions that must be met are "something for something" and related to the workplace (DOL, 2012).

Quid pro quo harassment can be asserted when a supervisor:

- Fires or denies promotion to a subordinate for refusing to be sexually cooperative
- Offers preferential treatment or promotion if a subordinate sexually cooperates
- Pressures an employee for sexual favors to avoid something negative such as a bad job assignment (DOL, 2012)

Hostile Work Environment

We worked with really beautiful models including these two twins. The executives were so vulgar about the twins—they wouldn't leave them alone. The chief legal officer cornered a twin in the hallway and was reciting poetry to her. He had singled her out.

A woman at the company insisted that I report it to HR because she knew it would be the death of my career. I did not report it. HR departments—I never trust anyway. They're the most gossip-y people in any organization. I talked to [the model] about it. She didn't want it to be escalated in any way. She wants to keep her job as a model with the company.

Top-level Executive, 40+, Public Relations

Keplinger et al., , 2019

A hostile environment can result from the unwelcome conduct of supervisors, co-workers, customers, contractors, or anyone else with whom the victim interacts on the job, and the unwelcome conduct renders the workplace atmosphere intimidating, hostile, or offensive (DOL, 2012). Examples of behaviors that may contribute to an unlawful hostile environment include:

- Discussing sexual activities or telling off-color jokes concerning sex
- Unnecessary touching or engaging in hostile physical conduct
- Commenting on physical attributes or displaying sexually suggestive pictures
- Using demeaning or inappropriate terms or epithets, using indecent gestures, or using crude language
- Sabotaging the victim's work (DOL, 2012)

Sexual harassment can also include . . . the display of sexually suggestive objects, signs, magazines, or pictures, or the sending of sexually suggestive emails or text messages to persons who do not want this attention" (IL Helpline, 2020).

Blurred Lines

I think it's making them think twice when those issues are being brought up and what do they do about it—instead of just sending a guy to some sort of sensitivity training. Maybe we actually need to take a bolder step here.

Consultant, 30+, engineering

Keplinger et al., 2019

Although "quid pro quo" and "hostile environment" harassment are theoretically distinct claims, the line between the two is not always clear, and the two forms of harassment often occur together. For example, an employee's tangible job conditions are affected when a sexually hostile work environment results in her discharge. Similarly, a supervisor who makes sexual advances toward a subordinate employee may communicate an implicit threat to adversely affect her job status if she does not comply (EEOC, 1990).

Hostile environment harassment may acquire characteristics of quid pro quo harassment if the offending supervisor abuses authority over employment decisions to force the victim to endure or participate in the sexual conduct. Sexual harassment may culminate in a retaliatory discharge if a victim tells the harasser or employer he or she will no longer submit to the harassment and is then fired in retaliation for this protest. Under these circumstances it would be appropriate to conclude that both harassment and retaliation are in violation of section 704(a) of Title VII (EEOC, 1990).

5. Responding to Harassment

Harassment Unreported

I had this really bad experience when I was home a couple of weeks ago. My stepfather and my brother were defending Kavanaugh, saying “If this happened to Professor Blasey Ford, why didn’t she tell her parents? Why didn’t she tell *anyone*?”

And I said, “I was sexually assaulted in college and I didn’t tell anybody, do you wanna know my story?”. .

I felt emboldened to be able to tell the story because I’m not alone—and there are women all over the place telling their story. I would say there’s less shame.

Top-level Executive, 40+, Public Relations

(Keplinger et al, 2019)

Victims of sexual harassment often do not report it. Sexual harassment is frequently perpetrated by someone of higher status than the victims, so they fear there will be no remediation and in fact may risk even more harassment or retaliation. In addition, victims cite “fear of blame, disbelief, inaction, humiliation, ostracism, and damage to one’s career and reputation” as reasons they choose not to report (OJIN, 2019).

All of these reasons lead to very low rates of reporting of sexual harassment and formal reporting processes are used as a “last resort.” It is estimated that only between 11% and 25% of these victims file an official report (OJIN, 2019).

Fear of Retaliation

Retaliation for complaining about sexual harassment is prohibited by the Illinois Human Rights Act. **Retaliation** is conduct intended to deter or dissuade a person from making a complaint, or filing a report of sexual harassment, or participating in an investigation conducted by the Illinois Department of Human Rights or other similar agency (IL Helpline, 2020).

“It is a civil rights violation for a person, or for two or more persons to conspire . . . to retaliate against a person because he or she has made a charge, filed a complaint, testified, assisted, or participated in an investigation, proceeding, or hearing under this act or because he or she has requested, attempted to request, used, or attempted to use a reasonable accommodation as allowed by this Act” (Section 6-101, Illinois Human Rights Act).

Know Your Rights

Know your rights and responsibilities. If you are being sexually harassed, or you witness the harassment:

- Tell the person to stop.
- Document the incident. Keep records including witness names, telephone numbers, and addresses.
- Act promptly. Report the incident to management and notify police if criminal conduct is involved.
- Report the incident to the Illinois Department of Human Rights or the Equal Employment Opportunity Commission. (IL Helpline, 2020)

Learn how to Report Incidents

If you are the victim of unwelcome sexual harassment or if you witness or become aware of sexual harassment, you have the right to tell the person to stop and you have the right to report it. A complainant can be an employee or non-employee, customer or patron, and harassment can be perpetrated by an employee or non-employee.

There are several ways to report sexual harassment in the workplace. The individual can choose one or more of the following options.

Call the Illinois Helpline

Call the State of Illinois Sexual Harassment and Discrimination Helpline at

877-236-7703, Monday through Friday, 8:30–5:00

The helpline phones are answered by The Chicago Lighthouse Call Center, which is under contract to the Illinois Department of Human Rights. Callers are informed of options for reporting the harassment. A complaint can be made anonymously and all complaints remain confidential.

Callers can be provided with information about additional resources, including recommendations to pursue legal or counseling services. The helpline shall provide the means through which persons may report sexual harassment and discrimination in both private and public places of employment.

Report to a Superior on the Job

Report an allegation of sexual harassment confidentially to a manager, owner, corporate headquarters, human resources department, sexual harassment officer (if available), or any other internal reporting mechanism that may be available.

File a Charge with Illinois Human Rights

A charge may be filed with the Illinois Department of Human Rights (IDHR). A victim of sexual harassment can file a complaint **within 300 days** of the incident by submitting a Complainant Information Sheet to IDHR. After IDHR investigates the claim, the employee can file a lawsuit in civil court or file a complaint with the Illinois Human Rights Commission (Workplace Transparency Act, 2019). There are five steps involved when processing a charge filed with IDHR:

- Intake
- Optional mediation
- Investigation
- Findings and results, and
- Legal review

For more information regarding these steps, please see IDHR Filing a Charge at <https://www2.illinois.gov/dhr/FilingCharge/Pages/default.aspx>.

File a Charge with EEOC

A charge can also be filed with the United States Equal Employment Opportunity Commission (EEOC) **within 300 days** of the incident. If the EEOC finds reasonable cause to believe that there has been a violation of federal law, the IDHR shall adopt the EEOC's determination of reasonable cause. The complainant then has the right, within 90 days after receipt of the notice, to either file his or her own complaint with the Illinois Human Rights Commission or commence a civil action in the appropriate circuit court or other appropriate court (WTA, 2019).

To file a charge with the EEOC:

Call 1-800-669-4000

or

1-800-669-6820

(TTY for deaf or hard of hearing)

or

1-844-234-5122

(ASL video phone for deaf or hard of hearing)

You can access the EEOC online at: www.EEOC.GOV.

The Chicago District Office of the EEOC is located at

230 S. Dearborn St., Chicago, IL 60604

For more information regarding the Illinois EEOC, (including additional offices), please see <https://www.eeoc.gov/statistics/illinois>.

Remedies

It used to be, "Well, why were you out at two in the morning? You must have just been doing something wrong."

Now I think the public is shifting toward putting the attention where it should be, which is disgust and anger towards the perpetrator.

College professor, 30+

(Keplinger et al., 2019)

Remedies awarded to the victim of sexual harassment may include, but are not limited to: injunctive relief (a court orders a party to do something or to refrain from doing something), reinstatement of job and lost wages and benefits, and reasonable attorney's fees and economic damages (WTA, 2019).

6. Conclusion

I think people became more aware that it's a widespread thing. I mean women always knew it to be a widespread thing but I think men became more aware that it's happening around them. That men who haven't harassed anybody didn't know that others were harassing.

Software engineer, 30+, IT

(Keplinger et al., 2019)

The State of Illinois has a compelling interest in securing individuals' freedom from unlawful discrimination and harassment in the workplace. **Sexual harassment** is unwelcome or unwanted sexual conduct that is either very serious or occurs frequently. The harasser may be another employee, a supervisor, the company owner, or even a customer. The harasser may be male or female or two of the same sex. The sexual conduct can be verbal, physical, in writing, or in pictures. Illegal sexual harassment creates a hostile or intimidating workplace and interferes with an employee's job performance.

Under Illinois law, if you have been sexually harassed or witnessed sexual harassment, you have the right to tell the harasser to stop and you have the right to report it. This unlawful conduct should not be ignored or tolerated. Sexual harassment is against the law.

7. References

- Bribiescas RG. (2017). Evolution Expert: 'Boys Will Be Boys' Doesn't Explain Sexual Harassment. Retrieved October 18, 2020 from <https://time.com/5053976/men-sexual-harassment-evolution-natural-selection/>.
- Department of Defense, Sexual Assault Prevention and Response Office (**SAPRO**). (2017). Department of Defense Annual Report on Sexual Assault in the Military, Fiscal Year 2016. Retrieved July 1, 2017 from http://sapr.mil/public/docs/reports/FY16_Annual/FY16_SAPRO_Annual_Report.pdf; http://sapr.mil/public/docs/reports/FY16_Annual/Appendix_A_LOE_Highlights.pdf; http://sapr.mil/public/docs/reports/FY16_Annual/Appendix_B_Statistical_Section.pdf; http://sapr.mil/public/docs/reports/FY16_Annual/Appendix_H_Sexual_Harassment_Data.pdf.
- Department of Justice (**DOJ**). (2018). Overview of Employment Litigation. Retrieved August 28, 2020 from <https://www.justice.gov/crt/overview-employment-litigation>.
- Department of Labor (**DOL**). (n.d.). Legal Highlight: The Civil Rights Act of 1964. Retrieved August 31, 2020 from <https://www.dol.gov/agencies/oasam/civil-rights-center/statutes/civil-rights-act-of-1964#:~:text=In%201964%2C%20Congress%20passed%20Public,religion%2C%20sex%20or%20national%20origin.&text=The%20Act%20prohibited%20discrimination%20in%20public%20accommodations%20and%20federally%20funded%20programs>.
- Department of Labor (**DOL**). (2012). What do I need to know about...workplace harassment. Retrieved November 1, 2020 from <https://www.dol.gov/agencies/oasam/centers-offices/civil-rights-center/internal/policies/workplace-harassment/2012>.
- Duane Morris, LLP. (2020, January 28). Illinois Employers: 10 New Employment Laws You Need to Know for 2020 and Beyond. Retrieved November 20, 2020 from https://www.duanemorris.com/alerts/illinois_employers_10_new_employment_laws_you_need_to_know_2020_beyond_0120.html?utm_source=Mondaq&utm_medium=syndication&utm_campaign=LinkedIn-integration.
- Equal Opportunity Employment Commission (**EEOC**). (2002). Facts About Sexual Harassment. Retrieved August 26, 2020 from <https://www.eeoc.gov/fact-sheet/facts-about-sexual-harassment>.
- Equal Employment Opportunity Commission (**EEOC**). (1990). Policy Guidance on Current Issues of Sexual Harassment. Retrieved November 10, 2020 from <https://www.eeoc.gov/laws/guidance/policy-guidance-current-issues-sexual-harassment>.
- Equal Employment Opportunity Commission (**EEOC**). (n.d.). Sexual Harassment. Retrieved August 24, 2020 from <https://www.eeoc.gov/sexual-harassment>.
- Forbes*. (2020). Supreme Court Issues Historic Ruling: Title VII Prohibits Discrimination Against LGBTQ Employees. By Eric Bachman. Retrieved October 15, 2020 from <https://www.forbes.com/sites/ericbachman/2020/06/15/supreme-court-rules-that-title-vii-prohibits-discrimination-against-lgbtq-employees/#1287b2cd33f9>.
- Illinois Department of Human Rights (**IDHR**). (2020a). State of Illinois Model Sexual Harassment Prevention Training Program. Retrieved August 24, 2020 from <https://www.ilga.gov/legislation/ilcs/documents/077500050K2-109.htm>.
- Illinois Department of Human Rights (**IDHR**). (2020b). Filing a Charge. Retrieved November 11, 2020 from <https://www2.illinois.gov/dhr/FilingaCharge/Pages/default.aspx>
- Illinois Department of Human Rights (**IDHR**). (2020b). Retrieved from <https://www2.illinois.gov/dhr/Training/Pages/FAQ%20for%20Sexual%20Harassment%20Prevention%20Training.aspx>.

Illinois General Assembly. (2020). Illinois Compiled Laws. Retrieved November 11, 2020 from <https://www.ilga.gov/legislation/ilcs/ilcs4.asp?ActID=2266&SeqStart=1200000&SeqEnd=2100000>.

Illinois General Assembly. (2020). Full text of SB1829. Retrieved December 8, 2020 from <https://ilga.gov/legislation/fulltext.asp?DocNum=1829&DocTypeID=SB&GAID=11&SessionID=84>.

Illinois Human Rights Act (**IHRA**). (2019a). Section 2-101 E of the Illinois Human Rights Act. Retrieved September 15, 2020 from <https://www.ilga.gov/legislation/ilcs/ilcs5.asp?ActID=2266>.

Illinois Human Rights Act (**IHRA**). (2019b). Section 2-109 (B). Retrieved August 24, 2020 from <https://www.ilga.gov/legislation/ilcs/documents/077500050K2-109.htm>.

Illinois Sexual Harassment Helpline. (2020). Retrieved December 8, 2020 from <https://www2.illinois.gov/sites/sexualharassment/Pages/default.aspx>

Illinois State Bar Association (**ISBA**). (2020). Rights of Lesbians, Gays, bisexuals, and Transgender Persons. Retrieved December 8, 2020 from <https://www.isba.org/public/guide/rightsoflgbt>.

JDSupra.com. (2020, June 17). In Landmark Decision, Supreme Court Rules That Title VII Prohibits Employment Discrimination of Gay and Transgender Individuals. Retrieved November 19, 2020 from <https://www.jdsupra.com/legalnews/in-landmark-decision-supreme-court-92396/>.

Keplinger K, Johnson SK, Kirk JF, Barnes LY. (2019). Women at work: Changes in sexual harassment between September 2016 and September 2018. Retrieved October 28, 2020 from <https://doi.org/10.1371/journal.pone.0218313>.

National Organization for Women (**NOW**). (2013). A Brief History of Sexual Harassment in the United States. Written by Amanda Reed. Retrieved October 18, 2020 from <https://now.org/blog/a-brief-history-of-sexual-harassment-in-the-united-states/>.

National Public Radio (**NPR**). (2020). Supreme Court Rules Federal Law Protects LGBTQ Workers from Sex Discrimination. By Nina Totenberg. Retrieved November 11, 2020 from <https://www.npr.org/2020/06/15/877586646/supreme-court-rules-federal-law-protects-lgbtq-workers-from-sex-discrimination>.

Norris S, Torrisi C. (2020). COVID-19 hasn't killed sexual harassment at work—it's just moved online. Retrieved October 29, 2020 from <https://www.opendemocracy.net/en/5050/covid19-sexual-harassment-work-online/>.

Online Journal of Issues in Nursing (**OJIN**). (2019). Sexual harassment in healthcare: A psychological perspective. By Kabat-Farr D, Crumley ET. Retrieved November 13, 2020 from <http://ojin.nursingworld.org/MainMenuCategories/ANAMarketplace/ANAPeriodicals/OJIN/TableofContents/Vol-24-2019/No1-Jan-2019/Sexual-Harassment-Healthcare-Psychological-Perspective.html#>

Siegel RB. (2003). A Short History of Sexual Harassment. Retrieved October 10, 2020 from https://law.yale.edu/sites/default/files/documents/pdf/Faculty/Siegel_IntroductionAShortHistoryOfSexualHarassmentLaw.pdf.

Workplace Transparency Act (**WTA**). (2019). Illinois Public Act 101-0221. Retrieved October 25, 2020 from <https://www.ilga.gov/legislation/publicacts/101/101-0221.htm>.

Quiz for Illinois: Sexual Harassment

1. The Civil Rights Act of 1964 was benchmark legislation because it:

- a. Freed all remaining indentured persons in the United States.
- b. Fulfilled Lincoln's Gettysburg Address.
- c. Allowed all persons of color to vote for President.
- d. Prohibited discrimination in employment.

2. *Sexual harassment* is:

- a. Speaking to a stranger without introduction.
- b. Asking a woman if she wants to go for coffee.
- c. Making unwelcome sexual advances.
- d. Telling "dad" jokes.

3. The Workplace Transparency Act was a reaction to:

- a. The #MeToo movement.
- b. The need for more natural light in the workplace.
- c. Use of plexiglass panels to enable colleagues to see one another while working.
- d. The need for honesty in filling out employment documents.

4. Employers are responsible for:

- a. Providing parking spaces for every employee.
- b. Sexual harassment by independent contractors in the workplace.
- c. Identifying the sexual orientation of each employee.
- d. providing sexual harassment training once a month.

5. Restaurants and bars are required to:

- a. Have a written sexual harassment policy.
- b. Explain management liability.
- c. Define *sexual harassment* and its penalties.
- d. All of the above.

6. Sexual harassment does not have to be of a sexual nature and can include general comments about a person's sex.

- a. True
- b. False

7. Quid pro quo means:

- a. Response to "I came, I saw, I conquered."
- b. The Lord be with you.
- c. Something for something.
- d. "You, too" from Caesar to Mark Anthony.

8. Blurred lines occur when:

- a. People become confused about sex.
- b. Two forms of harassment arise together.
- c. Harassment is confused with sociability.
- d. Retaliation is identified incorrectly.

9. What is the first thing to do when you suspect harassment?

- a. Immediately phone the police.
- b. Tell your manager.
- c. Tell the person to stop.
- d. Quit your job.

10. The State of Illinois states that a harasser can be:

- a. Another employee.
- b. A supervisor.
- c. A customer.
- d. All of the above.

Answer Sheet

Illinois: Sexual Harassment

Name (Please print) _____

Date _____

Passing score is 80%

1. _____
2. _____
3. _____
4. _____
5. _____
6. _____
7. _____
8. _____
9. _____
10. _____

Course Evaluation

Please use this scale for your course evaluation. Items with asterisks * are required.

5 = Strongly agree 4 = Agree 3 = Neutral 2 = Disagree 1 = Strongly disagree

*Upon completion of the course, I was able to:

- 1. Name 4 circumstances in which sexual harassment can occur according to the Equal Employment Opportunity Commission. 5 4 3 2 1
- 2. Describe 3 conditions that define sexual harassment according to the Illinois Human Rights Act. 5 4 3 2 1
- 3. Name 4 responsibilities of employers regarding sexual harassment in Illinois. 5 4 3 2 1
- 4. Describe the 2 types of sexual harassment. 5 4 3 2 1
- 5. Name 4 actions to take if you are sexually harassed. 5 4 3 2 1
- 6. Describe 4 ways to report sexual harassment in Illinois. 5 4 3 2 1

*The author(s) are knowledgeable about the subject matter. 5 4 3 2 1

*The author(s) cited evidence that supported the material presented. 5 4 3 2 1

*Did this course contain discriminatory or prejudicial language? Yes No

*Was this course free of commercial bias and product promotion? Yes No

*As a result of what you have learned, will make any changes in your practice? Yes No

If you answered Yes above, what changes do you intend to make? If you answered No, please explain why.

*Do you intend to return to ATrain for your ongoing CE needs?

Yes, within the next 30 days. Yes, during my next renewal cycle.

Maybe, not sure. No, I only needed this one course.

*Would you recommend ATrain Education to a friend, co-worker, or colleague?

Yes, definitely. Possibly. No, not at this time.

*What is your overall satisfaction with this learning activity? 5 4 3 2 1

*Navigating the ATrain Education website was:

Easy. Somewhat easy. Not at all easy.

*How long did it take you to complete this course, posttest, and course evaluation?

- 60 minutes (or more) per contact hour
- 59 minutes per contact hour
- 40-49 minutes per contact hour
- 30-39 minutes per contact hour
- Less than 30 minutes per contact hour

I heard about ATrain Education from:

- Government or Department of Health website.
- State board or professional association.
- Searching the Internet.
- A friend.
- An advertisement.
- I am a returning customer.
- My employer.
- Social Media
- Other _____

Please let us know your age group to help us meet your professional needs

- 18 to 30
- 31 to 45
- 46+

I completed this course on:

- My own or a friend's computer.
- A computer at work.
- A library computer.
- A tablet.
- A cellphone.
- A paper copy of the course.

Please enter your comments or suggestions here:

Registration and Payment Form

Please answer all of the following questions (* required).

*Name: _____

*Email: _____

*Address: _____

*City and State: _____

*Zip: _____

*Country: _____

*Phone: _____

*Professional Credentials/Designations:

*License Number and State: _____

*Name and credentials as you want them to appear on your certificate.

Payment Options

You may pay by credit card, check or money order.

Fill out this section only if you are paying by credit card.

1 contact hours: \$12

Credit card information

*Name: _____

Address (if different from above):

*City and State: _____

*Zip: _____

*Card type: Visa Master Card American Express Discover

*Card number: _____

*CVS#: _____ *Expiration date: _____