

Emtrain's Preventing Workplace Harassment – for Illinois Learners

In May, 2020, the Illinois Department of Human Rights (IDHR) released its model Sexual Harassment Prevention Training program for Illinois employers in compliance with Public Act 101-0221 (commonly referred to as the Workplace Transparency Act).

The Department did not issue any regulations – making the model training the only clear indication of the content the Department believes should be covered to comply with state training mandates.

In most significant ways, Emtrain's existing harassment prevention training covered the topics presented in the model training. We have, however, made minor tweaks to course content in to ensure that the training satisfies Illinois training requirements.

These changes are set forth below.

US/Ca Version

What's Unlawful Harassment

What is "Sexual Harassment?"



"Workplace harassment" can involve conduct related to any of a number of protected characteristics.

"Sexual harassment" is one kind of workplace harassment.

It involves sexually charged conduct and relates to the protected characteristic of **gender**.


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Illinois Version

What's Unlawful Harassment

In Illinois, sexual harassment refers to **unwelcome sexual advances or any conduct of a sexual nature** when:

- Submitting to the conduct is an **explicit or implied term or condition of employment**,
- Accepting or rejecting the conduct becomes the **basis for employment decisions** affecting the individual, or
- The conduct **substantially interferes** with work performance or creates a hostile offensive or intimidating workplace.



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US/Ca Version

Illinois Version

What's Unlawful Harassment

What's Unlawful Harassment

Some Take-aways for You

- "Harassment" is a kind of unlawful conduct that is defined by law.
- Even if behavior doesn't meet all the legal definitions of "harassment," it can still be a big problem, violate policies and even get you fired.
- Workplace harassment is unlawful conduct that discriminates against someone based on at least one protected characteristic.

Some Take-aways for You

- Illegal "harassment" is unlawful conduct that's defined by law.
- Behavior that doesn't exactly meet the legal definition of harassment can still be a problem and lead to discipline.
- Workplace harassment is unlawful when it relates to at least one protected characteristic.
- Sexual harassment is one kind of workplace harassment. It involves sexually charged conduct and relates to the protected characteristic of gender.



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What Makes Conduct Unwelcome?

What Makes Conduct Unwelcome?

Don't Assume Silence Means It's Okay

It's pretty common for a situation to change quickly and for conduct to turn from welcome to unwelcome fast.

And people don't always react or complain in the moment because they're surprised, uncomfortable or afraid.

But the key thing here is to clue into the behavior.

People are **not** legally required to speak up before making a complaint about workplace conduct.

Just Stop



What should you do if someone asks you to stop doing something or leave them alone?

Easy! Just stop.

If your conduct doesn't cross the line, you're still causing a problem that needs sorting.

If your conduct does cross the line, then keeping it up will lead to more trouble - including more legal trouble.



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US/Ca Version

Types of Harassment

Hostile Work Environment Conduct ✕

"Hostile work environment" can be sexual harassment or age harassment or race harassment - or harassment based on any protected characteristic.

To be a hostile work environment, a situation must meet these four criteria:

1. Conduct based on a **protected characteristic, AND**
2. **Unwelcome** conduct, **AND**
3. **Severe or pervasive** so that it changes the workplace culture, **AND**
4. The employer (including managers) **knew or should have known** of the conduct and did nothing to stop it

Illinois Version

Types of Harassment

Hostile Work Environment Conduct ✕

"Hostile work environment" can involve sexual harassment or age harassment or race harassment - or harassment based on any protected characteristic.

A hostile work environment always involves unwelcome conduct that:

1. Is directed at someone because of a **protected characteristic** and
2. Has the purpose and effect of **substantially interfering with an individual's work performance** or creating an **intimidating, hostile or offensive work environment.**

Types of Harassment

Deeper Dive

It's a hostile work environment when conduct is...

Based on a **protected characteristic AND Unwelcome AND**

is "**severe**" (impacts ability of victim to do their job) or "**pervasive**" (more than one or two incidents) **AND**

The **employer knew or should have known** about it

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Types of Harassment

Deeper Dive

It's a hostile work environment when **unwelcome conduct:**

Is directed at someone because of a **protected characteristic, AND**

Has the purpose and effect of **substantially interfering with an individual's work performance** or creating an **intimidating, hostile or offensive work environment.**

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US/Ca Version

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Reporting, Investigations and Workplace Policies

Reporting, Investigations and Workplace Policies

No Equivalent – New Card

Complaints and Investigations

In investigating complaints, we'll also seek and preserve all relevant documents, emails and phone records. And we'll interview the parties and any witnesses.

There's no guarantee of absolute confidentiality to a complaint or investigation.

However, complaints are handled as discreetly as possible and facts or allegations are revealed on a "need to know" basis.

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Reporting: To the State Helpline

You can also report incidents to the State of Illinois Sexual Harassment and Discrimination Helpline for assistance. Calls are confidential and can be made anonymously.

Call: 1-877-236-7703

Visit

www.Illinois.gov/SexualHarassment

Helpline workers can help with reporting options and share additional information related to counseling, legal assistance, and frequently asked questions.





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Reporting, Investigations and Workplace Policies

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Reporting, Investigations and Workplace Policies

Reporting: To the EEOC

You can also report incidents to the Equal Employment Opportunity Commission.

How and When?

The Process

Contact Information



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How and When?

The United States Equal Employment Opportunity Commission (EEOC) is responsible for enforcing Title VII of the Civil Rights Act of 1964, the federal law that make it illegal to engage in sexual harassment or retaliation.

Complainants (victims of sexual harassment) may file a charge at any time within 300 days of the incident(s).

The EEOC has jurisdiction (authority) to investigate employers who have 15 or more employees.

To start the process, call the EEOC or visit their website.



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Reporting, Investigations and Workplace Policies

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Illinois Version

Reporting, Investigations and Workplace Policies

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The Process

After EEOC completes its investigation:

The Complainant (the employee) may file a lawsuit in federal court.

The EEOC may help parties reach a settlement through an informal process called “conciliation” if the EEOC finds “reasonable cause” to believe discrimination occurred.

Complainants who prevail in federal court may receive an order awarding remedies allowed by Title VII to make the employee “whole.”

Remedies may include: back pay, lost benefits, clearing of a personnel file, damages, hiring, promotion, reinstatement, front pay where reinstatement is not possible, punitive damages, and attorney’s fees and costs.

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Contact Information

To file a charge, call or visit online:

1-800-669-4000 | www.EEOC.GOV

1-800-669-6820 (TTY for Deaf/Hard of Hearing callers only) 1-844-234-5122 (ASL Video Phone for Deaf/Hard of Hearing callers only)

U.S. EEOC Offices Serving Illinois

• Chicago District Office. JCK Federal Building, 230 S. Dearborn St., Chicago, IL 60604

• St. Louis District Office. Robert A. Young Federal Building, 1222 Spruce St., Rm. 8.100, St. Louis, MO 63103



US/Ca Version

Reporting, Investigations and Workplace Policies

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Illinois Version

Reporting, Investigations and Workplace Policies

Reporting: To the IDHR
 You can also report incidents to the Illinois Department of Human Rights.

How and When?

The Process

Contact Information

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How and When ✕

The Illinois Department of Human Rights (IDHR) is a state agency responsible for enforcing the Illinois Human Rights Act, the state law which makes it illegal to engage in sexual harassment or retaliation.

Complainants (victims of sexual harassment) may file a charge at any time within 300 days of the incident(s).

IDHR has jurisdiction (authority) to investigate employers who have 1 or more employees.

To start the process, submit a Complainant Information Sheet to IDHR.



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Reporting, Investigations and Workplace Policies

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The Process

After IDHR completes its investigation, the Complainant (the employee):

- May file a lawsuit in civil court, or ?
- May file a complaint with the Illinois Human Rights Commission (HRC) if IDHR found “substantial evidence” of a violation.

Complainants who prevail in the HRC or Court may receive an order awarding remedies allowed by the Illinois Human Rights Act to make the Complainant “whole.”

Remedies may include: back pay, lost benefits, clearing of a personnel file, damages, hiring, promotion, reinstatement, front pay where reinstatement is not possible, and attorney’s fees and costs.

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Contact Information

To file a charge, call IDHR or visit them online:

1-800-662-3942 |

www.ILLINOIS.GOV/DHR IDHR Offices

Locations:

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

Springfield. Office: 217-785- 5100 | 866-740-3953 (TTY), 535 W. Jefferson, 1st Floor, Intake Unit, Springfield, IL 62702 ?

Marion. Office: 618-993-7463 | 217-740-3953 (TTY), 2309 W Main St, Marion, IL 62959



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Reporting, Investigations and Workplace Policies

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Working Together
The manager's special role is one part of our organization's larger commitment.

To Prevent Harassment by...

To Investigate Complaints by...

To Correct Inappropriate Conduct by...

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To Prevent Harassment by...

- Developing, implementing and regularly communicating our workplace harassment policy.
- Provide training for managers and employees on workplace harassment prevention.
- Ensuring clear communication on how to report harassment incidents and inappropriate conduct.
- Making sure managers monitor their work environment to ensure the workplace is free of harassment – and are aware of the conduct within their supervision.
- Leading by example and model appropriate conduct
- Checking in with workers throughout the year to ensure an appropriate work environment



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Reporting, Investigations and Workplace Policies

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Reporting, Investigations and Workplace Policies

To Investigate Harassment Complaints by...

- Immediately responding to a complaint of harassment and initiating an inquiry or investigation.
- Interviewing complainants and taking reasonable action to protect them from retaliation or further sexual harassment during the investigation.
- Interviewing all relevant witnesses.
- Interviewing the alleged perpetrator of the harassment.
- Documenting the investigation results and maintaining the file as an employment record.
- Taking corrective action as appropriate.

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To Correct Inappropriate Conduct by...

- Taking appropriate corrective disciplinary action up to and including termination of employment when our policy is violated.
- Counseling, training and closer supervision of the employees who engage in conduct that does not rise to the level of harassment or a violation of policy, but is concerning.
- Taking reasonable action to reduce the likelihood of future harassment incidents by updating policies and communicating them to the workforce, providing supplemental or tailored harassment training, or restructuring the working environment or reporting relationships.
- Following up with the complainant at regular intervals to ensure they and the workplace remains free from harassment.