

Sexual Harassment Prevention: The Illinois Requirement

HOW TO RECEIVE CREDIT

- Read the enclosed course.
- Complete the questions at the end of the course.
- Return your completed Answer Sheet to NetCE by mail or fax, or complete online at www.NetCE.com. Your postmark or facsimile date will be used as your completion date.
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Faculty

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Faculty Disclosure

Contributing faculty, Lauren E. Evans, MSW, has disclosed no relevant financial relationship with any product manufacturer or service provider mentioned.

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The division planner and director have disclosed no relevant financial relationship with any product manufacturer or service provider mentioned.

Audience

This introductory course is designed for psychologists who may act to prevent sexual harassment.

Accreditations & Approvals



Continuing Education (CE) credits for psychologists are provided through the co-sponsorship of the American

Psychological Association (APA) Office of Continuing Education in Psychology (CEP). The APA CEP Office maintains responsibility for the content of the programs.

Designations of Credit

NetCE designates this continuing education activity for 1 CE credit.

Special Approval

This course is designed to fulfill the Illinois requirement for 1 hour of continuing education in the area of sexual harassment prevention.

About the Sponsor

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Course Objective

The purpose of this course is to provide psychologists with clear knowledge of the consequences of sexual harassment and the skills to help combat harassment in the workplace.

Learning Objectives

Upon completion of this course, you should be able to:

1. Describe the primary types and forms of sexual harassment.
2. Identify the consequences of sexual harassment.
3. Discuss steps to take when one witnesses or experiences sexual harassment.
4. Outline whistleblower protections.

INTRODUCTION

Sexual harassment in the workplace has existed for centuries, primarily affecting domestic workers, servants, and women who were in the workforce. It was often assumed that women wanted or deserved the sexual attention and advances that they reported, unless they had substantial evidence that they had rejected or fought against their aggressor [1]. Only in recent decades has the law protected workers from the harassment and assault that many experienced.

Under Title VII of the Civil Rights Act of 1964, unwanted sexual advances in the workplace were made illegal, but it was not until the 1970s that the term “sexual harassment” began to gain recognition, due in large part to the women’s rights movement [1; 2]. While sexual harassment is a term that has been familiar to the general population for the past 40 years, it has returned to the spotlight since the beginning of the “Me Too” movement, which started in 2006 but gained more widespread support and following in 2017 [3].

In 2021, the Equal Employment Opportunity Commission (EEOC) received approximately 21,270 reports of harassment from employees in the private sector and in local and state governments [4]. In 2015, the EEOC received 6,741 harassment reports from federal employees. In both cases, 45% of the reports were alleged cases of sexual harassment. According to the EEOC, approximately 90% of employees who experience harassment in the workplace never take formal action against their harasser [4; 5]. Overall, it is estimated that between 25% and 85% of women experience sexual harassment at work [5]. While women make up the large majority of sexual harassment victims, men are also victims. In 2018, men filed slightly less than 16% of all sexual harassment claims made to the EEOC [4].

The field of health care has several risk factors that make it particularly prone to incidents of sexual harassment. For example, sexual harassment occurs more often in workplaces with hierarchal structures and significant power disparities, both of which are apparent in healthcare workplaces. Also, harassment is more common in workplaces that are male-dominated [5; 6]. In one survey, 30% to 70% of female physicians and 50% of female medical students reported having experienced sexual or gender harassment at work [6; 7]. Sexual harassment has also been found to be particularly common in the field of nursing [8]. In one survey of nursing students, 60% reported having experienced sexual harassment [9]. In mental health care, a study of workers at an acute psychiatric facility found that 9.5% to 37.2% had experienced sexual harassment perpetrated by a patient/client [10]. It is important to note that the incidence of sexual harassment is difficult to determine, as most studies of workplace violence do not distinguish physical from verbal violence/threats or sexual harassment.

It was once thought that sexual harassment was something workers had to put up with in order to advance in the healthcare field [8]. However, it is important that all employees know that sexual harassment is not something that should be endured, regardless of the setting. In 2017, TIME’S UP Healthcare was founded, with a mission of helping change culture, companies, and laws. The TIME’S UP Foundation aims to create a society free of gender-based discrimination in the workplace and beyond [7].

This course will discuss the laws and regulations that define sexual harassment and the many consequences victims may experience. Steps to take in order to report sexual harassment if one experiences or witnesses it in the workplace will also be outlined. Lastly, this course will review the laws in place to protect those who make a report.

DEFINING SEXUAL HARASSMENT

Sexual harassment is a form of sex discrimination, violating Title VII of the Civil Rights Act of 1964. According to the EEOC, [11]:

...unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitutes sexual harassment when submission or rejection of this conduct explicitly or implicitly affects an individual's employment, unreasonably interferes with an individual's work performance, or creates an intimidating, hostile, or offensive work environment.

Psychologically, sexual harassment has been divided into three categories that reflect the legal definitions [12]:

- Gender harassment: Insults based upon sex, jokes, sexist comments, sexting, pornography, dehumanizing epithets (e.g., dog, whore), grabbing
- Unwanted sexual attention: Attraction, sexual pursuit, pressure for dates, unwanted compliments, the sharing of sexual fantasies—a show of sexual interest that is unwelcome
- Sexual coercion: Sexual compliance as a condition of a relationship

Among these three types, gender harassment is the most common.

Victims of sexual harassment can be either men or women, although, as discussed, women are more likely to be victims of sexual harassment than men [4]. The harasser can be of the same or different sex as the victim (e.g., a man may harass a woman or another man). Additionally, it is possible that a victim is not the target of the harasser but was affected by offensive behavior that was targeted toward another person. Harassers may be the victim's supervisor, employer, co-worker, or even a non-employee (e.g., client, patient) [11].

TYPES AND FORMS OF SEXUAL HARASSMENT

There are two categories of sexual harassment as outlined by Title VII of the Civil Rights Act of 1964: quid pro quo and hostile work environment [13; 14].

Quid Pro Quo

Quid pro quo, meaning “this for that” in Latin, consists of a supervisor or other superior asking for sexual favors in exchange for benefits at work. These demands may be outright or implied. Benefits may include a promotion, a pay increase, a bigger office, approval of vacation time, better work shifts, or keeping one's job. Quid pro quo harassment also includes negative repercussions from refusing to perform the acts requested by the superior. For example, the harasser may threaten to or actually fire, demote, or assign unpleasant work assignments or bad work shifts to the victim as retaliation.

According to the law, even if a person acquiesced to the advances of a superior at first, she or he can report the sexual harassment at a later time [15]. Also, it may be possible for a third-party to be affected by and report sexual harassment—for example, if he or she was denied a promotion because another person submitted to the advances of a superior.

Hostile Work Environment

Hostile work environment sexual harassment is similar to quid pro quo in that it may involve sexual advances. However, a key difference is that the harasser may not offer benefits or threats. Also, the harassment may not come from a supervisor but rather a coworker, vendor, client, or patient. It includes unwanted and unwelcome advances, comments, jokes, or any other content that is offensive, hostile, or threatening and that affects or even prevents the employee from doing her or his job. This may include but is not limited to [16]:

- The telling of sexual or “dirty” jokes or stories

- The use of offensive or derogatory sexual language to refer to someone
- Speaking offensively and sexually about a person's gender in general
- Showing the victim offensive sexual images
- Any physical contact of a sexual or unnecessarily intimate nature that is repeated and is done without the permission of the victim

In cases of hostile work environment sexual harassment, a third-party may be the unintended victim—for example, if he or she overhears offensive jokes or speech and it affects work performance.

LAWS AND REGULATIONS DEFINING SEXUAL HARASSMENT

Title VII of the Civil Rights Act of 1964

As noted, Title VII of the Civil Rights Act of 1964 is a federal law that protects workers from discrimination regardless of their gender, race, color, national origin, or religion [2]. The EEOC was created under Title VII and is responsible for enforcing federal laws that make it illegal to discriminate against a job applicant or an employee. This law applies to businesses with 15 or more employees and to federal, state, and local governments. Violation of Title VII can encompass all aspects of employment, including but not limited to hiring, firing, layoffs, compensation, training, promotions, and assignments. It is also illegal to discriminate against a person for making a complaint or reporting discrimination [17; 18; 19]. Specifically, section 703 of Title VII states it shall be an unlawful employment practice for an employer to [19]:

- Fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his/her compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin

- Limit, segregate, or classify his/her employees or applicants for employment in any way that would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his/her status as an employee, because of such individual's race, color, religion, sex, or national origin

29 C.F.R. Part 1604.11

The Code of Federal Regulations Part 1604.11 states that sexual harassment directly defies section 703 of Title VII of the Civil Rights Act of 1964 [20]. The Code reads [20]:

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment 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 unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

Illinois Laws

There are several laws in the state of Illinois regarding the prevention of, training to prevent, and protection from sexual harassment. The Illinois Human Rights Act, enforced by the Illinois Department of Human Rights (IDHR), ensures the right of all employees to work in an environment free of sexual harassment or discrimination [21]. In 2017, the Illinois Sexual Harassment and Discrimination (SHD) helpline and website were created in order to help inform and guide employees through the sexual harassment reporting process (**Resources**). The state of Illinois also requires that places of business have sexual harassment policies in place in order to protect employees and ease the reporting process [21; 22; 23].

CONSEQUENCES OF SEXUAL HARASSMENT

Sexual harassment and worker bullying in the health-care workplace have led to severe patient care failures, including medication and medical errors and even death [24]. In addition to patient care failures, research clearly demonstrates that sexual harassment can negatively affect one's health. People who have been victims of sexual harassment are more likely to be depressed and to have symptoms of stress and anxiety, including post-traumatic stress disorder (PTSD). Sexual harassment has been associated with additional negative psychological effects, including burnout, unhealthy eating behaviors, self-blame, reduced self-esteem, emotional exhaustion, anger, disgust, fear, and less satisfaction with life in general. Furthermore, victims of sexual harassment may be more likely to abuse drugs and alcohol and self-harm. Physical health consequences may include headaches, exhaustion, disrupted sleep, gastrointestinal problems, weight gain or loss, and cardiovascular and respiratory issues [5; 13].

Sexual harassment has been shown to lower productivity in the workplace. This is partly due to the fact that victims of sexual harassment may spend work hours filing complaints, discussing the harassment with coworkers, or seeking assistance to stop the harassment. Victims may be tardy, may neglect their duties or assignments, or may be absent from work altogether. Sexual harassment in the workplace can negatively affect the entire team, creating a tense, uncomfortable environment for all employees.

Employee turnover is higher when there is harassment in the workplace [5; 13]. Women who are sexually harassed in the workplace are 6.5 times more likely to quit than women who are not. This results in women missing out on promotions and salary increases, thus increasing the wage gap between men and women [25].

In 1994, a study found that sexual harassment was conservatively estimated to have cost the U.S. government \$327.1 million over two years [5; 25]. Factoring in inflation, this would amount to more than \$556 million today [25]. This estimate included the costs of lowered productivity, sick leave, and job turnover, and did not include the cost incurred due to the damaged reputation of a company, which may affect its ability to attract employees or clients in the future [5].

WHAT TO DO IF ONE EXPERIENCES OR WITNESSES UNWELCOME SEXUAL CONTACT

It is important to note that prevention of sexual harassment and the creation of a safe work environment is the responsibility of the employer. Clear policies should be put in place stating that sexual harassment of any kind will not be tolerated and that harassers will be disciplined or terminated. Unfortunately, national studies indicate that more than 70% of U.S. workplaces do not have institutional policies to address workplace violence, including sexual harassment [26]. Employees should have clear instructions for reporting, if need be, and retaliation against employees who file a report should not be tolerated [5; 21; 27].

If one experiences or witnesses sexual harassment in one's place of work, there are several things that can be done to stop the behavior and/or protect oneself [11; 13; 21]:

- It is important that the victim of sexual harassment not blame her- or himself. The blame should be put on the harasser.
- The victim should report the offending behavior to a superior or otherwise follow the grievance system that the employer has in place.
- If possible, document all incidents of sexual harassment, including when it occurred, what happened, what was said or implied, and who was present.

- The victim should make clear to the harasser that his or her behavior, speech, or actions are unwelcome and must stop. This may feel uncomfortable to the victim, but it is often the most effective strategy. If a face-to-face discussion is too difficult or dangerous, the victim may choose to send an e-mail or memo to the harasser outlining the incidents and explaining her or his feelings.
- If one feels comfortable, one may confide in a friend, family member, or coworker. This may help to reduce stress and receive support. Additionally, one may learn that he or she has not been the only one to experience sexual harassment from a particular harasser and a plan to report may be made.
- Seeking counseling may help reduce stress related to the sexual harassment.
- If the victim belongs to a union, it may be effective to report the harassment directly to the labor union.

If the employer has not effectively stopped the harassment, has not taken the complaint seriously, the sexual harassment has continued, or the victim has experienced retaliation after filing their complaint, the victim may then choose to report the harassment to the Illinois Department of Human Rights or file a civil lawsuit under Title VII of the Civil Rights Act of 1964.

REPORTING SEXUAL HARASSMENT

IN THE WORKPLACE

The first step to reporting sexual harassment in one's place of work is to report the harassment to a supervisor, human resources director, or manager. There should be a policy in place to support the victim and guide them through the reporting process. The policy should include the definition of sexual harassment, descriptions and examples of sexual harassment, and the penalties of violating the sexual harassment policy [15]. In most cases, the employer will conduct an investigation and take action, if indicated.

TO OUTSIDE ENTITIES

Illinois Department of Human Rights

A charge of discrimination, including sexual harassment, can be reported to the IDHR in person or by phone, fax, e-mail, or mail within 300 days of the alleged harassment. (The statute of limitations in Chicago has been extended to 365 days.) The employee who wishes to report sexual harassment must complete, sign, and submit a complainant information sheet (CIS) to the IDHR. More information, including the CIS and the locations and addresses to which one can make the report, can be found online at <https://www.illinois.gov/dhr> [15]. If the harassment occurs in the context of an educational institution, the IDHR has a specific form for reporting. In all other places of employment, the general employment CIS should be used to report sexual harassment.

After a report is made to the IDHR, an investigation begins. The IDHR may collect relevant documentation and/or speak to witnesses. The IDHR has up to 365 days to complete their investigation, but most cases are closed sooner. If the IDHR finds that there is substantial evidence of harassment, the case is taken to an administrative law judge at the Illinois Human Rights Commission, a separate state agency that conducts public hearings. This process can take several years [23].

The IDHR may also assist with mediation services in order to resolve any allegations and to avoid an investigation. An investigation can also be avoided if the two parties agree to a voluntary settlement [23].

Equal Employment Opportunity Commission

Another option for employees who experience sexual harassment is to file a complaint with the EEOC, the federal agency that enforces Title VII of the Human Rights Act of 1964. The EEOC will investigate allegations of harassment and determine if it is severe or pervasive enough to be considered illegal [18].

WHISTLEBLOWER PROTECTIONS

FEDERAL PROTECTIONS

Under equal employment opportunity (EEO) law, it is illegal to retaliate against a person for [28]:

- Filing or being a witness in an EEO charge, complaint, investigation, or lawsuit
- Communicating with a supervisor or manager about employment discrimination, including harassment
- Answering questions during an employer investigation of alleged harassment
- Refusing to follow orders that would result in discrimination
- Resisting sexual advances or intervening to protect others

An action is considered retaliation if, in response to an employee's action with the EEOC, the employer or supervisor [28]:

- Reprimanded the employee or gave a performance evaluation that was lower than it should have been
- Transferred the employee to a less desirable position
- Engaged in verbal or physical abuse
- Threatened to make, or actually made, reports to authorities (such as reporting immigration status or contacting the police)
- Engaged in increased scrutiny
- Spread false rumors
- Treated a family member negatively (e.g., canceled a contract with the person's spouse)
- Made the person's work more difficult (e.g., purposefully changing an employee's work schedule to conflict with family responsibilities)

ILLINOIS PROTECTIONS

The Illinois Human Rights Act explicitly protects employees from retaliation from their employer or supervisor in cases of discrimination and harassment. Retaliation is defined as conduct intended to punish, deter, or dissuade a person from making a complaint or filing a report of sexual harassment or discrimination, or participating in an investigation conducted by the Illinois Department of Human Rights or other similar agency [29; 30].

CONCLUSION

Sexual harassment in the workplace can be prevented and/or discouraged with training, anti-harassment policies, and reporting. Employers are responsible for creating work environments that are safe for all employees and are free from harassment. Following the correct state and federal reporting guidelines and having a clear understanding of what constitutes sexual harassment can help to reduce cases of harassment and provide a safe environment for all.

RESOURCES

Illinois Sexual Harassment and Discrimination Helpline

(877) 236-7703

<https://www2.illinois.gov/sites/sexualharassment>

Illinois Department of Human Rights

Chicago Office: (312) 814-6200

Springfield Office: (217) 785-5100

<https://www2.illinois.gov/dhr>

Illinois Legal Aid Online

<https://www.illinoislegalaid.org>

TIME'S UP Healthcare

<https://timesupfoundation.org>

U.S. Equal Employment Opportunity Commission

<https://www.eeoc.gov>

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