



# A Fresh Perspective on Sexual Harassment Training Compliance

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February 17, 2020

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# Why Do We Have to Pay Attention to Sexual Harassment Charges

- Sexual Harassment Charges in the State of Illinois have increased 43% from 350/year (2017) to 500/year (2019)
- The worst sexually harassing firms underperformed the U.S. stock market (including NASDAQ, AMEX and the NYSE) by an average of 19.9 percent percent a year
  - For Public companies, this represents Market Capitalization = \$2.1 billion
- Average cost for lost employee productivity and employee turnover = \$22,500
- Total cost of FY 2019 charges settled by EEOC = \$68.2 million

# Illinois Human Rights Act (775 ILCS 5/)

## What is Sexual Harassment?

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

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

For purposes of this definition, the phrase "working environment" is not limited to a physical location an employee is assigned to perform his or her duties.

# Sexual Harassment

- Quid Pro Quo
- Hostile Working Environment

You are responsible for protecting your employees from harassment by other employees, vendors, and customers

# Scenarios: Is This Sexual Harassment?

- [Scenario 1](#)
- [Scenario 2](#)
- [Scenario 3](#)
- [Scenario 4](#)

# Mandatory Sexual Harassment Training

- Every employer with employees working in the State of Illinois is required to provide employees with sexual harassment prevention training that complies with Section 2-109 of the Illinois Human Rights Act ("IHRA")
  - At least 1 employee
- Employers may develop their own sexual harassment prevention training program that equals or exceeds the minimum standards for sexual harassment prevention training outlined in Section 2-109(B) of the IHRA, or may use the model sexual harassment prevention training developed by the Illinois Department of Human Rights ("IDHR")
  - Available in February 2020

# Training Policy

- All Employees Must Be Trained
  - Part time, Full time, or Intern
  - Not obligated to train Independent Contractors but it is good practice to do so
  - Temporary employees “work” for the temp firm, however, similar to ICs, it is good practice to train them on site
  - New employee should be trained unless you can verify they received IHRA compliant training from another IL employer
  - Employees employed by IL firm but not based in IL must still have training
- You are responsible for maintaining the records verifying training was completed
- A training template and videos will be provided: <http://www.illinois.gov/dhr/training>
- Training must be completed by 12/31/2020
- Fewer than four workers could pay \$500 for a first offense. The fine can climb to \$3,000 on the third offense.
- For companies with more than four workers, the penalties for the first offense start at \$1,000 and go up to \$5,000 on the third offense.

# Minimum Standards for Training

Employers may develop their own sexual harassment prevention training programs provided they meet or exceed the minimum training standards outlined in Section 2-109(B) which include:

- an explanation of sexual harassment consistent with the IHRA;
- examples of conduct that constitutes unlawful sexual harassment;
- a summary of relevant federal and State statutory provisions concerning sexual harassment, including
- remedies available to victims of sexual harassment; and
- a summary of responsibilities of employers in the prevention, investigation, and corrective measures of sexual harassment.

# What If You Are a Bystander?

- Serial Harassers typically don't harass when there are witnesses
  - Rely on "he said, she said" to get them off of charges
- Bystanders are not legally obligated to say something
  - Research shows when a bystander is present and willing to step forward with what they see, harassment is less likely to occur

# Take-Aways

- Owners/leaders must set the tone for the culture they want in their organization
- When investigating, exercise due process
- Apply policy consistently and address complaints in a timely manner
- Start with mediation, but don't be afraid to confront and punish violators
- No one is so invaluable; they can't be replaced if they sexually harass others
- Don't be afraid to mentor, coach, and work with women
- Harassing behaviors have never been acceptable...victims are just not going to tolerate the behavior any more
- Rule of thumb...treat coworkers like you'd like to see you wife, sister, or daughter treated

Questions?