



Illinois Sexual Harassment Policy

Innovative Employee Solutions (IES) is committed to providing a work environment that enhances productivity and is free from all forms of discrimination, including sexual harassment. Any employee's behavior that fits the definition of sexual harassment is a form of misconduct, which may result in disciplinary action, up to and including termination. Sexual harassment could also subject IES and, in some cases, an individual to substantial civil penalties.

IES's policy on sexual harassment is part of its overall affirmative action efforts pursuant to federal and state laws prohibiting discrimination based on age, race, color, religion, national origin, citizenship status, unfavorable discharge from the military, marital status, disability and gender. Specifically, sexual harassment is prohibited by Title VII of the Civil Rights Act of 1964 and the Illinois Human Rights Act.

Each employee of IES must refrain from sexual harassment in the workplace. No employee, regardless of gender identity, should be subjected to unsolicited or unwelcome sexual overtures or conduct in the workplace. Furthermore, it is the responsibility of all supervisors and managers to make sure that the work environment is free from sexual harassment. All forms of discrimination and conduct which can be considered harassing, coercive, or disruptive, or which create a hostile or offensive environment must be eliminated. Instances of sexual harassment must be investigated in a prompt and effective manner.

All employees of IES, particularly those in a supervisory or management capacity, are expected to become familiar with the contents of this policy and to abide by the requirements it establishes.

DEFINITION OF SEXUAL HARASSMENT

According to the Illinois Human Rights Act, sexual harassment is defined as:

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.

The courts have determined that sexual harassment is a form of discrimination under Title VII of the U.S. Civil Rights Act of 1964, as amended in 1991.

One example of sexual harassment is a case where a qualified individual is denied employment opportunities and benefits after rejecting the supervisor's sexual advances or request(s) for sexual favors or the individual is terminated. Another example is when an individual is subjected to unwelcome sexual conduct by coworkers due to gender which makes it difficult to perform the essential functions of the job.

Other conduct, which may constitute sexual harassment, includes:

- **Verbal:** Sexual innuendos, suggestive comments, insults, humor, and jokes about sex, anatomy or gender-specific traits, sexual propositions, threats, repeated requests for dates, or statements about other employees, even outside of their presence, or a sexual nature.
- **Non-Verbal:** Suggestive or insulting sounds (whistling), leering, obscene gestures, sexually suggestive bodily gestures, "catcalls", "smacking" or "kissing" noises.
- **Visual:** Posters, signs, pin-ups or slogans of a sexual nature, viewing pornographic material or websites.
- **Physical:** Touching, unwelcome hugging or kissing, pinching, brushing the body, any coerced sexual act, or actual assault.
- **Textual/Electronic:** "Sexting" (electronically sending messages with sexual content including pictures and video), the use of sexually explicit language, harassment, cyber stalking and threats via all forms of electronic communication (email, text/picture/video messages, intranet/online postings, blogs, instant messages and social network websites like Facebook and Twitter).

While the most commonly recognized forms of sexual harassment involve the types of conduct described above, non-sexual conduct can also constitute a violation of the applicable laws when that conduct is directed at the victim due to gender (for example, a female employee who reports to work every day and finds her tools stolen, her work station filled with trash and her equipment disabled by her male coworkers because they resent having to work with a woman).

The most severe and overt forms of sexual harassment are easier to determine. On the other end of the spectrum, some sexual harassment is more subtle and depends, to some extent, on

individual perception and interpretation. The courts will assess sexual harassment by a standard of what would offend a "reasonable person".

For this reason, every manager, supervisor and employee must remember that seemingly harmless and subtle actions may lead to sexual harassment complaints. The use of terms such as "honey", "darling" and "sweetheart" is objectionable to many women who believe that these terms undermine their authority and their ability to deal with men on an equal and professional level. And while use of these terms by an individual with authority over a female employee will rarely constitute an adverse employment action, it may lead to the creation of a hostile work environment.

Another example is the use of a compliment that could potentially be interpreted as sexual in nature. Below are three statements that might be made about the appearance of a woman in the workplace:

"That's an attractive dress you have on."

"That's an attractive dress. It really looks good on you."

"That's an attractive dress. You really fill it out well."

The first statement appears to be simply a compliment. The last is the most likely to be perceived as sexual harassment, depending on individual perceptions and values. To avoid the possibility of offending an employee, it is best to follow a course of conduct above reproach or to err on the side of caution.

Sexual harassment is unacceptable misconduct, which affects everyone. Sexual harassment can involve employees of the same or different genders.

RESPONSIBILITY OF INDIVIDUAL EMPLOYEES

Each individual employee has the responsibility to refrain from sexual harassment in the workplace. An individual employee who sexually harasses a fellow worker is of course, liable for his or her individual conduct. The harassing employee will be subject to disciplinary action up to and including termination in accordance with IES policy or any applicable collective bargaining agreement, as appropriate.

RESPONSIBILITY OF SUPERVISORY PERSONNEL

Each supervisor is responsible for maintaining the workplace free of sexual harassment. This is accomplished by promoting a professional environment and by dealing with sexual harassment as with all other forms of employee misconduct. It must be remembered that supervisors are the first line of defense against sexual harassment. By setting the right example, a supervisor

may discourage his or her employees from acting inappropriately. In addition, supervisors and managers will often be the first to spot objectionable conduct or the first to receive a complaint about conduct which he or she did not observe.

The courts and the Illinois Human Rights Commission have found that organizations as well as supervisors can be held liable for damages related to sexual harassment by a manager, supervisor, employee, or third party (an individual who is not an employee but does business with an organization, such as a contractor, customer, sales representative, or repair person).

Liability is either based on an organization's responsibility to maintain a certain level of order and discipline among employees or on the supervisor or manager, acting as an agent of the organization. It should be noticed that recent U.S. Supreme Court cases involving sexual harassment claims against supervisors have made the employer's liability for supervisor's actions even stricter. Therefore, supervisors must understand that their adherence to this policy is vitally important; both with regard to their responsibility to maintain a work environment free of harassment and, even more importantly; with regard to their own individual conduct. The law continues to require employers to remain vigilant and effectively remedy sexually harassing conduct perpetrated by individual(s) on their coworkers. Supervisors must act quickly and responsibly not only to minimize their own liability but also that of IES.

Specifically, a supervisor must address an observed incident of sexual harassment or a complaint, with equal seriousness, report it, take prompt action to investigate it, implement appropriate disciplinary action, take all necessary steps to eliminate the harassment and observe strict confidentiality. This also applies to cases where an employee tells the supervisor about behavior considered sexual harassment but does not want to make a formal complaint. Supervisors must also ensure that no retaliation will result against an employee making a sexual harassment complaint.

Furthermore, managers/supervisors should remind employees, on a regular basis, that their incoming and outgoing electronic messages on employer owned/issued equipment are subject to monitoring and that employees have no expectation of privacy on employer owned/issued electronic equipment. Inform employees that if they are subjected to inappropriate electronic communications while at work or on employer-owned equipment, or even on their personal cell phones and computers, that they should contact their supervisor or Human Resources immediately. Advise managers, supervisors and employees not to friend each other on social networks and to limit their electronic messages to relevant business matters. Investigate complaints on a case-by-case basis and remind employees of IES's code of conduct and ethics rules if applicable.

PROCEDURES FOR FILING A COMPLAINT

An employee who either observes or believes herself/himself to be the object of sexual harassment should deal with the incident(s) as directly and firmly as possible by clearly communicating her/his position to the offending employee, her/his supervisor and company contact, and to the IES Human Resources Department at Hennette (I'm not sure we have a dedicated HR line or email. Can you check with Jennifer Maynard on this?) (858) 715-5100.

It is not necessary for sexual harassment to be directed at the person making a complaint.

The following steps may also be taken: document or record each incident (what was said or done, the date, the time and the place). Documentation can be strengthened by written records such as letters, notes, memos and telephone messages.

All charges, including anonymous complaints, will be accepted and investigated regardless of how the matter comes to the attention of IES. However, because of the serious implications of sexual harassment charges and the difficulties associated with their investigation and the questions of credibility involved, the claimant's willing cooperation is a vital component of an effective inquiry and an appropriate outcome.

No one making a complaint will be retaliated against even if a complaint made in good faith is not substantiated. In addition, any witness will be protected from retaliation.

Proper responses to conduct which is believed to be sexual harassment may include the following:

Electronic/Direct Communication. If there is sexual harassing behavior in the workplace, the harassed employee should directly and clearly express her/his objection that the conduct is unwelcome and request that the offending behavior stop. The initial message may be verbal. If subsequent messages are needed, they should be put in writing in a note or a memo.

Contact with Supervisory Personnel. At the same time direct communication is undertaken, or in the event the employee feels threatened or intimidated by the situation, the problem must be promptly reported to the immediate supervisor or and to IES Human Resources. If the harasser is the immediate supervisor, the problem should be reported to the next level of supervision or and to IES Human Resources.

Formal Written Complaint. An employee may also report incidents of sexual harassment directly to IES Human Resources. IES Human Resources will counsel the reporting employee and be available to assist with filing a formal complaint. The company will fully investigate the complaint and advise the complainant and the alleged harasser of the results of the investigation.

Resolution Outside Company. The purpose of this policy is to establish prompt, thorough and effective procedures for responding to every complaint and incident so that problems can be identified and remedied internally. However, an employee has the right to contact the Illinois Department of Human Rights (IDHR) or the Equal Employment Opportunity Commission (EEOC) about filing a formal complaint. An IDHR complaint must be filed within 180 days of the alleged incident(s) unless it is a continuing offense. A complaint with the EEOC must be filed within 300 days. In addition, an appeal process is available through the Illinois Human Rights Commission, (IHRC) after IDHR has completed its investigation of the complaint. Where the employing entity has an effective sexual harassment policy in place and the complaining employee fails to take advantage of that policy and allow the employer an opportunity to address the problem, such an employee may, in certain cases, lose the right to further pursue the claim against the employer.

ADMINISTRATIVE CONTACTS

Illinois Department of Human Rights (IDHR)
Chicago: 312-814-6200 or 800-662-3942
Chicago TTY: 866-740-3953
Springfield: 217-785-5100
Springfield TTY: 866-740-3953
Marion: 618-993-7463
Marion TTY: 866-740-3953

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Illinois Human Rights Commission (IHRC)
Chicago: 312-814-6269
Chicago TTY: 312-814-4760
Springfield: 217-785-4350
Springfield TTY: 217-557-1500

United States Equal Employment Opportunity Commission (EEOC)
Chicago: 800-669-4000
Chicago TTY: 800-869-8001

An employee, who is suddenly transferred to a lower paying job or passed over for promotion after filing a complaint with IDHR or EEOC, may file a retaliation charge, also due within 180 days (IDHR) or 300 days (EEOC) of the alleged retaliation.

An employee who has been physically harassed or threatened while on the job may also have grounds for criminal charges, such as assault or battery.

FALSE AND FRIVOLOUS COMPLAINTS

False and frivolous charges refer to cases where the accuser is using a sexual harassment complaint to accomplish some end other than stopping sexual harassment. It does not refer to charges made in good faith which cannot be proven. Given the seriousness of the consequences for the accused, a false and frivolous charge is a severe offense that can itself result in disciplinary action.

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