

# A Practical Guide for Sexual Harassment Prevention

# Why Sexual Harassment Can Flourish in Politics

“Experts in employment law and advocates of women’s rights say there are particular reasons that harassment can flourish in politics. At its core, sexual harassment is about power, and politics is the ultimate power profession. It draws in young people who are eager to advance and reluctant to make waves. And political organizations rise and fall around the fortunes of one central figure, a hierarchy that discourages reporting of harassment, because if the boss gets in trouble, everyone’s job is at risk.” – (New York Times)



# Sexual Harassment Pre-Quiz

Please take 5 minutes to complete the pre-quiz.

# Objectives



- ▶ Define sexual harassment
- ▶ Explain Federal and State protections
- ▶ Describe an elected official's responsibilities in identifying and handling sexual harassment
- ▶ Identify inappropriate conduct that can lead to allegations of sexual harassment
- ▶ Explain third party sexual harassment
- ▶ Identify best practices

# Types of Sexual Harassment



There are 2 types of Sexual Harassment:

1. Quid Pro Quo
2. Hostile Work Environment

# Quid Pro Quo



Quid Pro Quo Harassment is a type of sexual harassment when there is a request or demand of sexual favors in exchange for material or personal gain. In an employment setting it occurs when a supervisor or employer requests an employee to provide sexual favors in return for promotions, career advancement, or other types of benefits.

# Quid Pro Quo



In a legislative setting, Quid Pro Quo may include a request or demand for sexual favors in exchange for:

- ▶ Support for legislation
- ▶ Campaign contributions
- ▶ Having your bills called in Committee first
- ▶ Use of influence for the purposes of employment

# Hostile Work Environment



Hostile work environment is the type of sexual harassment that occurs when there is severe or pervasive unwanted sexual comments, advances, requests, or other similar conduct. It can also occur when there is other verbal or physical conduct that is sexual in nature.

# Hostile Work Environment



In the General Assembly, a hostile work environment may include:

- ▶ Displaying inappropriate or offensive material
- ▶ Telling sexually explicit jokes
- ▶ Interference with someone's ability to move freely; and
- ▶ Persistent, unwelcomed interactions, such as asking for dates continually.

# Quid Pro Quo vs Hostile Work Environment

Unlike quid pro quo harassment, a hostile work environment does not require any employment benefit to be at risk. Since it is not tied to the promise or threat of particular employment actions, this type of sexual harassment is found across all levels of employees

# Sexual Harassment Is It or Isn't It?



Senator Gilligan attends the reception for the local Sun Union. While at the reception she engages in conversation with Sunshine, the Executive Director of the local Sun Union. After several cocktails Senator Gilligan repeatedly asks Sunshine to join her for a “nightcap” at her apartment. When Sunshine refuses, Senator Gilligan becomes angry and leaves.

The next day while in Committee the Senator begins sending text messages to Sunshine asking for sexual favors in exchange for a “yes” vote on her bill. When Sunshine refuses, Senator Gilligan replies, “there’s no need for you to come to the hearing today your bill will not be called.”

Is this sexual harassment?

# Sexual Harassment 101

- ▶ Sexual harassment is:
  - ▶ Unwelcome sexual advances
  - ▶ Unwelcome requests for sexual favors
  - ▶ Unwelcome verbal, non-verbal or physical conduct of a sexual nature
- ▶ These adverse actions impact a person's:
  - ▶ Employment
  - ▶ Job performance
  - ▶ Work environment

# Unwelcome Physical Contact

- ▶ Touching
- ▶ Hugging
- ▶ Kissing
- ▶ Pinching
- ▶ Flirting
- ▶ Brushing up against
- ▶ Blocking a person's path

# Unwelcome Verbal Behavior

- ▶ Obscenities
- ▶ Suggestive comments or jokes
- ▶ Sexual propositions
- ▶ Inappropriate humor
- ▶ Threats
- ▶ Remarks about physical attributes

# Unwelcome Non-Verbal Behavior

- ▶ Staring
- ▶ Obscene gestures
- ▶ Sexually suggestive glances
- ▶ Suggestive noises
- ▶ Sexual content on computer displays
- ▶ Printed calendars or posters
- ▶ Inappropriate letters, text messages or email

# WHAT THE LAW PROVIDES



The Illinois Human Rights Act prohibits sexual harassment in the workplace. In Illinois, elected officials are subject to the provisions of the Illinois Human Rights Act as agents of either the Illinois House or Senate.

Therefore, as agents of the Illinois House or Senate, you can be held personally liable for the sexual harassment of an employee of the Illinois House or Senate.

# WHAT THE LAW PROVIDES

Under the Government Employee Rights Act of 1991

## **§2000e-16c. Coverage of previously exempt State employees**

### **(a) Application**

The rights, protections, and remedies provided pursuant to section 2000e-16b of this title shall apply with respect to employment of any individual chosen or appointed, by a person elected to public office in any State or political subdivision of any State by the qualified voters thereof-

- (1) to be a member of the elected official's personal staff;
- (2) to serve the elected official on the policymaking level; or
- (3) to serve the elected official as an immediate advisor with respect to the exercise of the constitutional or legal powers of the office.

# WHAT THE LAW PROVIDES

Under the Government Employee Rights Act of 1991

## **(b) Enforcement by administrative action**

### **(1) In general**

Any individual referred to in subsection (a) of this section may file a complaint alleging a violation, not later than 180 days after the occurrence of the alleged violation, with the Equal Employment Opportunity Commission, which, in accordance with the principles and procedures set forth in sections 554 through 557 of title 5, shall determine whether a violation has occurred and shall set forth its determination in a final order. If the Equal Employment Opportunity Commission determines that a violation has occurred, the final order shall also provide for appropriate relief.

### **(2) Referral to State and local authorities**

# Victim's Perception

- ▶ Sexual harassment violations are based on the perception of the victim, not the intentions of the accused.
- ▶ Also, the victim of harassment does not have to be the person harassed, Under the theory of third party harassment, anyone affected by unwelcome offensive conduct can be a victim as well.

# Third Party Harassment



Third-party sexual harassment must meet the regular definition for sexual harassment. It must be so severe or pervasive that it creates a hostile or abusive work environment. For example, if a mail carrier asks Representative Staples' secretary to go on a date, that wouldn't be sexual harassment. However, if he asks her each time he visits the office and she says no, that would create a hostile work environment.

Perpetrators of this type of harassment include lobbyists, reporters, mail carriers, legislative liaisons or vendors who come on site.

# Third Party Harassment



Third party sexual harassment means that the person offended by a hostile work environment does not have to be the direct participant or target of the unwelcome remarks or behavior, they can be a third party.

In these circumstances behavior that is comfortable between participants may be unwelcome to others who are in close proximity (third party) and cannot avoid hearing or seeing the exchange.

# Third Party Harassment – Is It or Isn't It?

A legislator has a business relationship with a lobbyist. The lobbyist is in and out of the legislator's office daily and talks to various individuals in the course of business. However, the lobbyist uses foul and slang terminology when he is referring to female employees and their anatomy, even in their presence and brings the legislator's assistant to tears. The lobbyist discusses openly his sexual liaisons. Over time, the assistant develops depression and anxiety. She has reported lobbyist's behavior to the legislator. The assistant has also told the lobbyist directly she doesn't want him speaking offensively around her.

Could this be considered third party sexual harassment?

# Personal Responsibility



As a leader in the State of Illinois you have a personal responsibility to maintain a work environment that is civil and free of sexual harassment.

# Sexual Harassment Is It or Isn't It?



Summer Jones, a legislative liaison needs to speak to Representative Lutherson about her agency's bill. When she arrives, she is greeted by Rep. Lutherson and Jax Riley, a lobbyist for Allied Crabtree Union. Jax proceeds to corner Summer and touch her inappropriately. She storms out but does not report the incident.

The two men laugh it off.

What should Representative Lutherson do next?

# State Protection (Jurisdiction)

- ▶ Section 2-102(D) of the Illinois Human Rights Act prohibits sexual harassment in employment
- ▶ Enforced by the IDHR
- ▶ Employer (Respondent) needs at least 1 employee
- ▶ Complaints can be filed against an individual
- ▶ Complainant has 180 days to file

# A New Beginning



All members of the General Assembly have a shared responsibility for ensuring that the overall legislative process and related activity is free from sexual harassment.

# Best Practices



- ▶ Maintain a strong policy prohibiting sexual harassment.
- ▶ Require training for lawmakers, staffers, lobbyists and employees.
- ▶ Document participation in formal trainings.
- ▶ Have everyone sign and submit to the appropriate party an acknowledgement form regarding training and receipt of the sexual harassment policy.
- ▶ Make sure the person responsible for investigating complaints is aware that you have an employee complaining of sexual harassment.

# Best Practices



- ▶ Document steps taken to resolve incidents of sexual harassment.
- ▶ Make sure that immediate and appropriate corrective action is taken when it is determined that sexual harassment has occurred.
- ▶ Refrain from behavior that is considered offensive, uncivil and disrespectful.
- ▶ Think before you speak.
- ▶ Use the grandma filter.
- ▶ If you believe you have offended someone apologize and promise not to do it again.
- ▶ Identify and change any inappropriate behavior.

# Illinois Department Human Rights

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