



## Frequently Asked Questions (FAQ) Sexual Harassment Prevention

### OVERVIEW

#### **Employers Must Provide Sexual Harassment Prevention 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”).<sup>1</sup> 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”). In addition to the training required under Section 2-109, restaurants and bars are also required to provide supplemental sexual harassment prevention training that complies with Section 2-110 of the IHRA.<sup>2</sup>

### FREQUENTLY ASKED QUESTIONS

#### **Which employers are required to train their employees?**

Employers who have 1 or more employees must provide a sexual harassment prevention training to their staff.

#### **What is the deadline to train my employees?**

As of January 1, 2020, employers are required to train every employee each calendar year. By December 31, 2020, employers must have trained all their employees.

#### **Does the IDHR offer a model sexual harassment prevention training?**

Yes, IDHR will develop a model sexual harassment prevention training. It will be available for download online free of cost in February 2020. For more information visit [www.illinois.gov/dhr/training](http://www.illinois.gov/dhr/training).

<sup>1</sup> Section 2-109 requirements do not apply to employers subject to Section 5-10.5 of the State Officials and Employees Ethics Act,

<sup>2</sup> For more information about Section 2-110 (training requirements for restaurants and bars), visit IDHR’s website and download handout SHP-TR01 titled (Sexual Harassment Prevention: Minimum Training Standards for Restaurants and Bars).



### **Are employers required to train short-term employees, part-time employees, or interns?**

Yes, all employees regardless of their status (i.e. short-term, part-time, or intern) must be trained.

### **Are employers required to train independent contractors?**

No, employers are not required to train independent contractors. However, it is strongly advised that independent contractors receive training if they are working on-site at an employer's workplace or interact with the employer's staff.

### **If my employee has been trained elsewhere, do I need to provide additional training?**

Employers are encouraged to retrain their new employees, regardless of whether the employee received the required training at a prior place of employment. Employers must independently retain their own records to show that all employees received the required sexual harassment prevention training. Employers may ask employees to provide documentation that they completed the training elsewhere. However, employers are responsible for ensuring the training received elsewhere is compliant with the IHRA. If the employer is unable to obtain the proper documentation, employers must have the employee retrained. Again, the employer is responsible for demonstrating all employees completed the annual training.

### **How does the training requirement apply to employees and employers based outside of Illinois?**

Any employees who work or will work in Illinois must be trained, regardless of whether the employer is based in Illinois. If an employee is based elsewhere but regularly interacts with other employees in Illinois, even if they are not physically present in Illinois, they should be trained.

- **Example 1:** Supervisor A works for ABC company in another state (e.g., Indiana, California, Florida, etc.) and supervises employees of ABC who work in the State of Illinois. Supervisor A should receive sexual harassment prevention training compliant with the IHRA even though Supervisor A is employed in another state.
- **Example 2:** Employee B works for ABC company in another state (e.g., Indiana, California, Florida, etc.) and will be working on a temporary basis with employees of ABC in Illinois. Employee B should receive sexual harassment prevention training compliant with the IHRA even though Employee B's home employer is in another state.

### **Does the IDHR have a model sexual harassment prevention training that complies with the IHRA?**

The IDHR will make available online and free of cost a sexual harassment prevention training curriculum that meets the training requirements outlined in Sections 2-109 and 2-110 of the IHRA. For further information, visit <http://www.illinois.gov/dhr/training/training>.



### **Will the IDHR certify trainings by third parties?**

No. Training requirements are outlined in IDHR's Handout SHP-TR01 and SHP-TR02. For further information, visit <http://www.illinois.gov/dhr/training>. Employers may develop their own training or hire an outside party to provide the training provided it complies with training requirements outlined Sections 2-109 and 2-110 of the IHRA.

### **What material must be covered in the sexual harassment prevention 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.

Restaurants and bars must also provide employees with supplemental training that meets or exceeds the minimum training standards outlined in Section 2-110 of the IHRA.

For more information on training requirements, visit [www.illinois.gov/dhr/training](http://www.illinois.gov/dhr/training).

### **What documentation is an employer required to maintain regarding the sexual harassment prevention training?**

Employers are required to keep a record of all trainings. Such records must be made available for IDHR inspection upon request. This record may be a certificate or a signed employee acknowledgement or course sign-in worksheet. The records may be paper or electronic.

### **How often should employers train employees?**

Employers must provide their employees with a sexual harassment prevention training by December 31, 2020 and annually thereafter. For individual employees, fulfilling the annual training requirement is based on the calendar year.

### **How soon must new employees be trained?**

Employers should provide training to new staff as soon as possible after hire or by December 31, 2020 and then annually thereafter by December 31. Employers are encouraged to train employees as soon as possible because employers are liable for the sexual harassment conduct of new employees upon their hire.



**May I use a third-party vendor to provide training? How do I ensure it meets the standards?**

Employers may use a third-party vendor or organization, have existing staff deliver the IDHR's model sexual harassment prevention training, or create and deliver their own training that complies with the minimum standards outlined in the IHRA. Employers should review any third-party training to ensure it meets or exceeds the minimum standards required under Section 2-109 and/or Section 2-110. For more information about minimum training standards, please visit [www.illinois.gov/dhr/training](http://www.illinois.gov/dhr/training) and download IDHR Handout SHP-TR01 for general employers and Handout SHP-TR02 for restaurants and bars.

**I have employees with disabilities or with limited English proficiency. Does the training have to be accessible?**

Yes. Employers must provide the training in a way that is accessible to its staff. If employees have disabilities or speak a language other than English, employers must train employees in a manner that is accessible to them.

**Can an employer require its employees to take the training outside of work?**

If an employer requires their employees to take the training outside of their regular hours – for example, on their personal phones or laptops before the start of a shift – they must be paid for their time.

**What if my employer never informs employees about the training or never requires that employees take it?**

Failure to provide annual sexual harassment prevention training is a violation of the IHRA. Employees can file a complaint by calling the IDHR's office at (312) 814-6278. Employees can anonymously report their employer's failure to provide a training by calling the IDHR's compliance line or by completing an online inquiry form.

**If I have multiple jobs, do I have to take the training at every place of employment?**

Employees do not need to take the training at each workplace where they work over the course of a year. Employers can request that employees provide proof of completion of a sexual harassment prevention training at another employer. Employees should request the certificate from the employer who provided the training to give to the other employer. Important: Employees are not responsible for confirming that their previous training complies with the training requirements. If there is a question of compliance, employers should require the employee to be trained again.

**How do I report that my employer is not in compliance with the sexual harassment prevention training?**

If you think that your employer is not in compliance with the requirements of the sexual harassment prevention training, please contact the IDHR by calling (312) 814-6278 or by filling out an online inquiry form at [www.illinois.gov/dhr/training](http://www.illinois.gov/dhr/training).



### Are there additional requirements for restaurants and bars?

Yes, every restaurant and bar, as defined under Section 2-110 of the IHRA, is required to provide employees with “supplemental” sexual harassment prevention training that complies with Section 2-110 of the IHRA. This is in addition to the sexual harassment prevention training required of all employers under Sections 2-109.<sup>3</sup> Restaurants and bars may develop their own sexual harassment prevention trainings that meets or exceeds the minimum standards outlined in Section 2-109(B) and Section 2-110(C), or they may use the model sexual harassment prevention trainings developed by IDHR.

### What are the minimum standards for sexual harassment prevention training for restaurants and bars?

Restaurants and bars may develop their own sexual harassment prevention training programs provided it meets or exceeds the minimum training standards outlined in Sections 2-109(B) and 2-110(C) of the IHRA.

#### Section 2-109(B) minimum training standards 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.

#### Section 2-110(C) minimum supplemental training standards include:

- specific conduct, activities, or videos related to the restaurant or bar industry;
- an explanation of manager liability and responsibility under the law; and
- English and Spanish language options.

### Are restaurants and bars required to have a sexual harassment prevention policy?

Yes, restaurants and bars are required, pursuant to Section 2-110(B), to establish a sexual harassment prevention policy and provide a copy to their employees. For more information on this requirement, visit IDHR’s website at [www.illinois.gov/dhr/training](http://www.illinois.gov/dhr/training) and download handout SHP-PLCY (Sexual Harassment Prevention Policy: Minimum Standards for Restaurants and Bars).

For more information please visit IDHR’s website at [www.illinois.gov/dhr/training](http://www.illinois.gov/dhr/training). View Section 2-109 and Section 2-110 of the [Illinois Human Rights Act](#).

<sup>3</sup> For more information about Section 2-109 (training requirements for all employers), visit IDHR’s website and download handout SHP-TR02 (Sexual Harassment Prevention: Minimum Training Standards for Employers).