

## **Bar and Restaurant Supplemental Scenarios**

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### **Scenario 1**

Sam applies for their first job at a restaurant. Sam is interviewed by Adrian, the manager. Sam felt the interview went well but thought the question about whether Sam is single was strange. Sam is offered a position to wait tables. Sam notes that Adrian stares from a distance but believes Adrian is just watching Sam work. Sam starts to feel uncomfortable as Adrian is always near the door to the kitchen and bumps into Sam all the time. One day Sam walks through the door and feels something on their butt. Sam turns and sees Adrian smiling and turns away quickly. Later that shift, Sam confronts Adrian about Adrian's behavior. Adrian says to Sam, "if you like it, your job can be much easier."

Is Sam being sexually harassed and if so, is the employer liable for Adrian's actions?

- Yes
- No

### **Correct Answer:**

Yes. Adrian's conduct toward Sam could be sexual harassment.

Rationale: Adrian's comments toward Sam could be sexual harassment given that they were sexual in nature and appear to have been unwelcome conduct. The restaurant is automatically liable for Adrian's actions because Adrian is in a management role and holds a position of authority.

### Scenario: 2 Big R's BBQ

Customer's A, B & C are frequent customers of Big R's BBQ and they all come in for dinner one night. They are all seated at a table close to the kitchen's entry and exit doors. Customer C says to Customer B, "This is the perfect spot to watch the employees go in and out of the kitchen." Customer A says, "Just be nice and don't do or say anything inappropriate to the employees." Customer C says, "Why not, that's what they are here for." Customer B says, "Yes, let's make them work for the tips." As soon as Server comes over to take the order, Customer B says, "Excuse me darling, what's your 'special' tonight?" Customer B proceeds to place a hand on the Server's backside. The Server removes Customer B's hand and says, "do not put your hands on me again or I will ask you to leave the restaurant." Customer C says, "Sweetheart, you will have to work harder for your tip now."

How could this situation be addressed?

- A. Assuming the Customers stop the unwelcome behavior, the Server could accept apologies from the Customers, alert the Owner of the situation, and proceed with service.
- B. The Server asks the Owner to have another server take the Customers' orders, and the Owner agrees.
- C. The Owner tells Customers A, B & C that their behavior is inappropriate and that if they continue to harass the Server or any of the staff, they will be asked to leave the restaurant.
- D. All of the above.

**The correct answer is D.** Each option is appropriate to address the situation.

Rationale: If the Customers' conduct stops, the Server could accept their apologies and proceed. If the Server does not choose this route, the Server could ask the Owner for assistance, such as having another server take the orders. The employer is responsible for making sure their employees work in an environment that is free from harassment and discrimination, that employees know how to report sexual harassment when it occurs, and that inappropriate customer behaviors are corrected.

### Scenario: 3 Burgers & Fries

Customer A walks into a local Burgers & Fries to-go restaurant and places an order for a double burger and large chocolate shake. Employee X takes the order and turns to retrieve the food. Customer A says to Employee X, “will fries come with that shake?” Employee X immediately turns around and says, “Excuse me, what did you say?” Customer A repeats, “will fries come with that shake?” This time Customer A is winking and making sexually suggestive gestures and movements towards Employee X.

How can Employee X respond to Customer A’s comments and gestures?

- A. Employee X tells Customer A to stop making the remarks, looks and sexually suggestive gestures, stating that “the behavior is offensive and inappropriate” and reports the situation to the Manager of Burgers & Fries.
- B. If Customer A does not refrain from the unwelcome conduct, Employee X alerts their manager, who then tells Customer A to stop the behavior, or leave the restaurant.
- C. Employee X and Customer A get into a shouting match and start calling each other inappropriate names.
- D. Answers A and B.

**The correct answer is D.** Both Answers A and B are correct.

Rationale: Employee X should ask Customer A to stop the sexually harassing behaviors and inform Customer A that the behavior is inappropriate. The Management of Burgers & Fries is responsible for making sure that their employees’ work environment is free from sexual harassment and discrimination, that employees know how to report sexual harassment when it occurs, and that inappropriate customer behaviors are corrected.

### Scenario: 4 Springfield Tigers

The Springfield Tigers softball team has just won the championship game and decides to stop at Mike's Pub for a few drinks to celebrate. Server comes to the table to take their drink orders and Teammates A and B start making statements to Server like "I bet you can quench my thirst. Wouldn't you like to cool me down? I'd like to drink from your fountain." Server replies, "Yes, I can cool you all down and quench all of your thirsts." Teammates A and B proceed and say, "how about you give us your phone number and we can take this to the next level." Server says "I don't think so. I am married." Everyone at the table laughs and proceed to place their drink orders. Teammate C turns to Server and says, "you know they're just kidding and didn't mean anything by it." Server replies, "I know, no worries" and leaves to retrieve the drink order.

Could the conduct of Teammates A and B toward Server be sexual harassment, and if so, what could be done?

- A. The conduct of Teammates A and B is not sexual harassment because the comments made by the Server show that the Server participated in the conversation and then told Teammate C not to worry about it.
- B. The conduct could be sexual harassment because the comments made to the Server were sexual in nature and may have been unwelcome to the Server.
- C. Server should report the conduct of Teammates A and B to the Mike's Pub manager, who should then inform Teammates to refrain from similar or like behavior or they will be denied service and asked to leave Mike's Pub.
- D. Answers B and C.

**The correct answer is D.** Both Answers B and C are correct.

Rationale: Server's participation in the conversation with Teammates A and B does not necessarily mean that the conduct was welcomed by Server. The comments were intended as sexual in nature. If Server is uncomfortable, the comments should be reported to a Mike's Pub Manager, who should ensure that the Teammates refrain from the conduct or leave the Pub.

### Scenario: 5 The Coffee Shop

Employee A & B are co-workers at The Coffee Shop. They have been working together for almost two years. Employee B has recently become Facebook friends with Employee A. Employee B sends a message to Employee A through Messenger asking Employee A out on a date. Employee A ignores the message and does not respond. Employee B sends another message through Messenger to Employee A, this time stating, "This could be the best date you've ever had." Employee A does not respond. Employee B sends a third message to Employee A and it read "I didn't want to date you anyway. I heard you're a slut." Employee A becomes very upset by the message and decides to share the messages with the Manager, indicating that "Employee B's comments have made it difficult to concentrate at work."

What is the responsibility of the Manager in this situation?

- A. The Manager should conduct an investigation into Employee A's complaint.
- B. If the investigation reveals that the conduct occurred, the Manager should take corrective action, including taking appropriate disciplinary action against Employee B, if warranted.
- C. The Manager should ensure that all Coffee Shop employees are aware of the Coffee Shop's policy against sexual harassment, and how to report it.
- D. All of the above are correct.

**The correct answer is D.** All of the above are correct. Rationale: The Manager is responsible for responding to Employee A's complaint by conducting an investigation putting a stop to the harassment. The Manager is also responsible for reminding employees of the Coffee Shop's sexual harassment prevention policy and employees' responsibilities to report sexual harassment to management.

**Scenario: 6** The Catering Game During an evening work catering event at a baseball game, Employee and Manager A stopped for a moment to watch the game. Manager A flirted with Employee and occasionally, nudged the Employee's leg. The Employee was startled by the Manager's behavior but did not say anything because of the Manager's position. After the catered event, Manager A texted, emailed, and called the Employee on a regular basis during non-working hours. The Employee told Manager A to stop texting and emailing, but the behavior continued. The Employee didn't report the matter further for fear of job loss as the family "bread winner." On at least two occasions at different catering events, two other managers, Manager B and Manager C witnessed the behavior of Manager A and advised the Employee to "just keep your head down." When the Employee and Manager A had a disagreement, Manager A warned Employee to be careful because of Employee's health condition and need for health insurance.

What are Employee's options to address this situation, and what are the responsibilities of Managers B and C?

- A. Employee should report the situation to the attention of the Human Resources Office, the Owner or any person designated by company policy to receive sexual harassment complaints.
- B. Employee may file a charge of discrimination based on sexual harassment with the Illinois Department of Human Rights against the Employer and Manager A.
- C. Managers B and C should report the conduct to the Human Resources Office, the Owner or any person designated by company policy to receive sexual harassment complaints and an investigation should be conducted.
- D. All of the above are correct.

**The correct answer is D.** All of the above are correct.

Rationale: Employee should alert the Human Resources Office so that an investigation can be conducted. Employee can also file a charge of discrimination. A charge of discrimination for sexual harassment can be brought against both the Employer and the individual who is engaging in the unwelcome conduct, in this case, Manager A. Managers B and C have the responsibility to report the conduct and cooperate with the investigation.

## **A Bartender's Dilemma**

On a daily basis at the Sunset Bar, Servers B, C, D, and E called Bartender A “Gay Preacher” and a “pedophile.” Server B repeatedly grabbed Bartender A’s buttocks and pinched Bartender A’s chest. Manager 1 witnessed the behavior of Servers B, C, D, and E on several occasions, and sometimes joined in as Servers B, C, D, and E laughed at Bartender A. The actions taken by Servers B, C, D, and E occurred during work hours in front of different managers, including Manager 1, and in the employee break room and restroom.

Could the conduct of Servers B, C, D and E toward Bartender A be considered sexual harassment, and if so, are the managers liable?

- A. The situation is not sexual harassment because the conduct is occurring because of Bartender’s A’s sexual orientation.
- B. Whether the situation is sexual harassment depends on whether the Bartender and the Servers are male or female.
- C. The conduct could be sexual harassment because Servers B, C, D and E are engaging in unwelcome conduct of a sexual nature toward Bartender A.
- D. The managers of the Sunset Bar are not liable because Manager 1 only laughed, but did not otherwise participate in the conduct.

**The correct answer is C.** The conduct could be considered sexual harassment. Rationale: The conduct of the Servers toward the Bartender was unwelcomed and of a sexual nature, and therefore, it could constitute sexual harassment, even if sexual orientation (e.g., “gay preacher”) is referenced. The gender of the Bartender and the Servers is not relevant to whether sexual harassment occurred. Because Manager 1 and the other managers are supervisory employees and in positions of authority, the Sunset Bar is automatically liable for the conduct toward Bartender.

**Scenario: 8** A Dangerous Transaction Customer was attempting to purchase a drink at the Local Bar and Grill. While passing the drink to Customer, Employee A intentionally brushed Customer's breasts. Customer recoiled and, in disbelief of what had occurred, handed Employee A money for the drink. When Employee A gave Customer her change, Employee A again brushed Customer's breasts, then laughed and made an unintelligible remark to another employee, Employee B. As Employee A started to make another gesture towards Customer, Customer moved out of Employee A's reach and fled out of the bar and grill visibly upset.

Who is liable for the treatment for Customer, and what is the best course of action?

- A. There is no liability for Employee A's conduct because Customer is not an employee of the Local Bar and Grill.
- B. Customer may file a charge of discrimination based on sexual harassment at the Illinois Department of Human Rights against the Local Bar and Grill.
- C. Employee B should report what they witnessed to a Local Bar and Grill manager. An investigation should be immediately conducted by the Local Bar and Grill, and appropriate disciplinary action should be taken against Employee A, if warranted.
- D. Both answers B and C are correct.

**The correct answer is "D. Both answers B and C are correct."**

Rationale: The Local Bar and Grill is liable for the behavior of Employee A and is responsible for investigating and taking any appropriate disciplinary action, if warranted. Since Customer was not an employee of the Local Bar and Grill, Customer cannot file a charge against Employee A directly. However, Customer may file a charge of discrimination based on sexual harassment against the Local Bar and Grill because it is a place of public accommodation.

Source: State of Illinois Sexual Harassment Prevention Training for Bars & Restaurants, State of Illinois Department of Human Rights, <https://www2.illinois.gov/dhr/training/Pages/default.aspx>, Accessed August 3, 2022