

Train the Trainer: Harassment Prevention

- Setting the stage for an effective training
- Understanding Required Content
 - Legal Protections
 - Defining Sexual Harassment
 - Sexual Orientation & Gender Identity Issues
 - Bullying and Abusive Behavior
 - Reporting & Remedies
- Training Requirements & Resources



Where is your company's harassment prevention policy?

- a) Kept at the office.
- b) In a binder at each worksite.
- c) Right in front of me- I was just reviewing it.
- d) I'm not sure know where it is.
- e) I don't know if our company has a written policy.
- f) We have one but it has not been revised for years.

Select all that apply



Harassment Policy Requirements

SB 1343 amended FEHA regulations; it required businesses with five or more employees to provide sexual-harassment-prevention training to all workers by Jan. 1, 2020, and every two years thereafter. SB 778 later extended this deadline to Jan. 1, 2021.



California Amends FEHA Employment Regulations

New regulations regarding the Fair Employment and Housing Act (FEHA) go into effect on April 1, 2016. Some important additions include the following:

Written Policy Requirements

California employers with five or more employees have an affirmative duty to take "reasonable" steps to prevent and correct discrimination and harassment. Under the new regulations, employers must create detailed written policies for preventing harassment, discrimination, and retaliation. The policies must:

- List all protected groups under the FEHA;
- Allow employees to report to someone other than a direct supervisor;
- Instruct supervisors to report all complaints;
- State that all complaints will be followed by a fair, complete and timely investigation;
- State that the employer will maintain confidentiality to the extent possible;
- State that remedial action will be taken if any misconduct is

social expectation, or generalization about the individual's sex. (*Id.* at (d).)

- "Transgender" refers to a person whose gender identity differs from the person's sex at birth. A transgender person may or may not have a gender expression that is different from the social expectations of the sex assigned at birth. A transgender person may or may not identify as "transsexual." (*Id.* at (e).)

Sex Discrimination

- Discrimination on the basis of sex protects all individuals from sex discrimination—not just females. (§ 11029.)
- Gender identity, gender expression, and transgender status are expressly protected. (*Id.*; § 11035.)

Reasonable Accommodations

- The interactive process requires an individualized

- California-Employers of 5 or more employees must have and verify distribution of a written policy on prevention of harassment, discrimination, and retaliation.



Preparing for the Training

- Have all materials: room set up, board, presentation, laptop, etc.,
- Have the participation record (sign in sheet).
- Have (and understand) the company's policy
 - Check that it is updated.
- Distribute copies of the policy to the employees.
- Distribute copies of the CRD 185 form.
- Materials should be in the language best understood by the employees.
- Have ready the certificates to give to each employee.



Employer Records

- Company Name
- Title of course/topic.
- Date and duration of session.
- Trainer name and contact.
- Employee names and signatures or mark- *do not sign for them.*
- Copy of certificate for each employee's file.
- Materials used.



TRAINING RECORD/ARCHIVO DE ENTRENAMIENTO

Provided by: California Farm Labor Contractor Association

916-389-1246 • www.CalFLCA.org • info@CalFLCA.org

Employer/Empleador: _____

Date/Fecha: _____ Time/Hora: _____ Location/Sitio: _____

Topics/Temas: _____

Training Materials/Materiales Utilizados: _____

Instructor: _____ Signature/Firma: _____

PARTICIPANTS/PARTICIPANTES	
Name/Nombre	Signature/Firma
1. _____	_____
2. _____	_____
3. _____	_____

Maintain records for at least 3 years.



Tips for Effective Trainings

- Minimize distractions.
- Establish expectations: duration, time for questions, etc.
- Introduce the topic.
 - Explain the relevance and importance for the audience.(policy and laws)
- Repeat and review key points to emphasize.
 - Use examples relevant to the audience.
- Allow time for participants to ask questions.



Encouraging Participation

- Invite questions on the topic.
- During and at the end, ask questions to verify understanding.
- Use examples, stories.
 - Ask the group if they know of examples related to the topic.
- Use photos, pictures, handouts.
- Instead of giving the answer immediately, ask the group.
- Offer prizes? Make a game?



Why teach the regulations?

Federal Level

- Civil Rights Act of 1964
- Equal Employment Opportunity Commission (EEOC)
www.eeoc.gov/sexual-harassment

State Level

- Ca Department of Civil Rights (formerly DFEH)
www.calcivilrights.ca.gov
- FLC Specific Requirements: Division of Labor Standards Enforcement (DLSE)
www.dir.ca.gov/DLSE/Rules_and_Regulations_for_FLCs.htm



Civil Rights Act of 1964

www.eeoc.gov/statutes/title-vii-civil-rights-act-1964

- (a) It shall be an unlawful employment practice for an employer –
- ...(1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin;





Know Your Rights: Workplace Discrimination is Illegal

The U.S. Equal Employment Opportunity Commission (EEOC) enforces Federal laws that protect you from discrimination in employment. If you believe you've been discriminated against at work or in applying for a job, the EEOC may be able to help.

Who is Protected?

- Employees (current and former), including managers and temporary employees
- Job applicants
- Union members and applicants for membership in a union

What Organizations are Covered?

- Most private employers
- State and local governments (as employers)
- Educational institutions (as employers)
- Unions
- Staffing agencies

What Types of Employment Discrimination are Illegal?

Under the EEOC's laws, an employer may not discriminate against you, regardless of your immigration status, on the bases of:

- Race
- Color
- Religion
- National origin
- Sex (including pregnancy and related conditions, sexual orientation, or gender identity)
- Age (40 and older)
- Disability
- Genetic information (including employer requests for, or purchase, use, or disclosure of genetic tests, genetic services, or family medical history)
- Retaliation for filing a charge, reasonably opposing discrimination, or participating in a discrimination lawsuit, investigation, or proceeding.

What Employment Practices can be Challenged as Discriminatory?

All aspects of employment, including:

- Discharge, firing, or lay-off
- Harassment (including unwelcome verbal or physical conduct)
- Hiring or promotion
- Assignment
- Pay (unequal wages or compensation)
- Failure to provide reasonable accommodation for a disability or a sincerely-held religious belief, observance or practice
- Benefits
- Job training
- Classification
- Referral
- Obtaining or disclosing genetic information of employees
- Requesting or disclosing medical information of employees
- Conduct that might reasonably discourage someone from opposing discrimination, filing a charge, or participating in an investigation or proceeding.

What can You Do if You Believe Discrimination has Occurred?

Contact the EEOC promptly if you suspect discrimination. Do not delay, because there are strict time limits for filing a charge of discrimination (180 or 300 days, depending on where you live/work). You can reach the EEOC in any of the following ways:

Submit an inquiry through the EEOC's public portal:
<https://publicportal.eeoc.gov/Portal/Login.aspx>

Call 1-800-669-4000 (toll free)

New EEO Poster

(Oct. 20, 2022)

www.eeoc.gov/poster



Explaining Protected Groups

calcivilrights.ca.gov/Publications

The California Department of Civil Rights (formerly DFEH) enforces laws that protect you from illegal discrimination and harassment in employment based on your actual or perceived:

- Ancestry
- Age (40 or above)
- Color
- Disability
- Genetic information
- Gender identity or expression
- Marital status
- Medical condition
- Military or veteran status
- National origin
- Race
- Religion
- Sex/gender*
- Sexual Orientation

*Includes pregnancy, childbirth, breastfeeding



#MeToo Movement

The New York Times

Harvey Weinstein Paid Off Sexual Harassment Accusers for Decades



201 people lost jobs,
major roles, or contracts.



Use Examples & Emphasize Impacts

Karla Amezola, an Emmy winning anchor filed a sexual harassment complaint against her boss, VP of News Andrés Angulo.



When the company did nothing to stop the illegal behavior she filed a lawsuit against the company, and along with a wrongful termination claim when she was fired, seeking \$15 million in damages. Amezola had to drive for Uber until years later was hired by Telemundo in Miami.





Daniel Levy
@televideo

...

Replying to @kdeleon

Sexual harasser Andres Angulo from Estrella TV was empowered by @kdeleon & the Senate with this



Estrella TV Producer Daniel Levy said, “I was a witness of what happened with Karla. When Human Resources called me to ask what I knew, I had to say the truth of what I heard and saw. HR said nothing would happen to me for speaking out. Two hours later, Andrés Angulo called me to his office to tell me they were moving me to a different show - one that had terrible ratings. I knew I was being set up.” He was fired four weeks later.



1:56 AM · Dec 7, 2017 · Twitter for iPhone

Examples Grab Attention

Sep. 2018: **\$11,000,000** verdict awarded to two winery workers harassed by manager and retaliated against in Southern California.

Jul. 2016: **\$1,470,000** paid by Madera, Ca. dried fruit processor for harassment by supervisors and retaliation by company.

Jul. 2016: **\$1,000,000** paid by Salinas Valley FLC to settle harassment claims by two celery workers.

May 2023: **\$100,000,000** fined LA game developer for claims of harassing jokes/behavior; assigning women jobs that were paid at lower rates; paying women less and promoting men more frequently than similarly situated women.



Mushroom Farm Fined \$3.4 million

- Washington 2021-2022: management wanted to replace largely female workforce because family obligations limited late hours and weekends.
- Managers increased production demands, then disciplined/fired female workers at higher rates for failing to meet goals. Even though female workers picked more than male workers on average.
- A lead picker posted to Facebook seeking “only males” for jobs.



- Many female and domestic workers quit in fear of discipline or being fired.
- Management replaced domestic workforce with male H-2A workers.



Explain what Sexual Harassment is

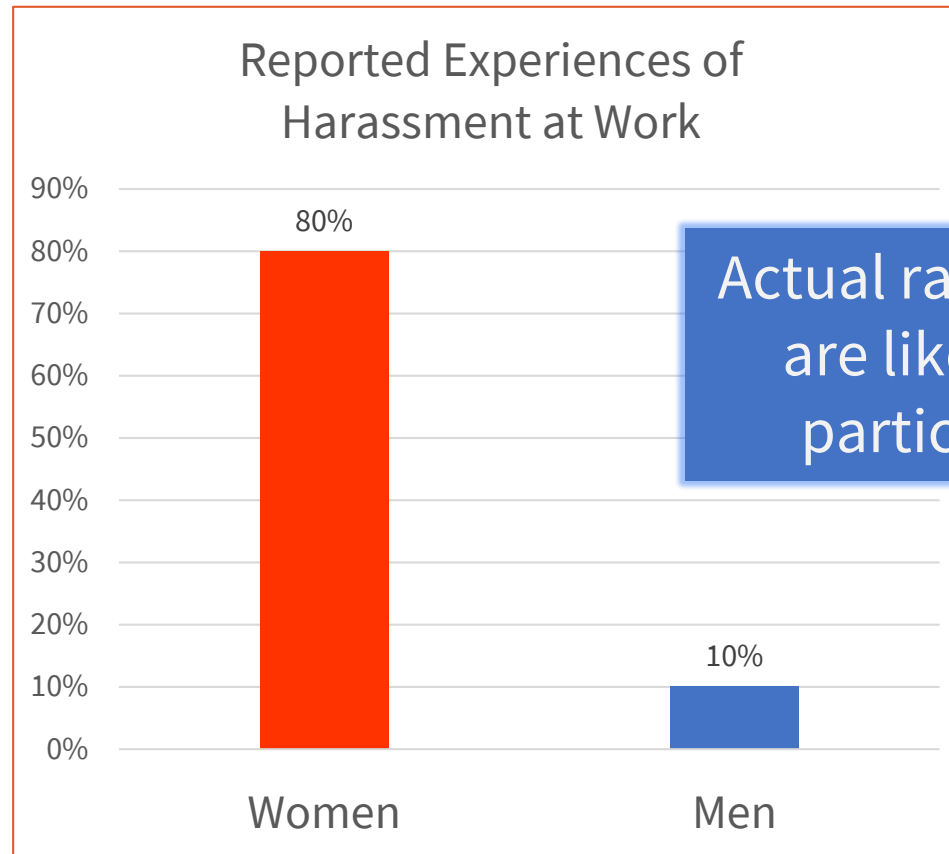
- Discrimination based on sex, gender, or sexual orientation.
- Unwelcome/unwanted, offensive behavior.
- Can involve people of the same or different genders.
- Does not have to be motivated by sexual desire.
- No matter the intent, the behavior will be judged on its impact.



According to studies...

What percent of farmworker women have experienced sexual harassment at work?

- a) 30%
- b) 55%
- c) 80%
- d) 95%



Actual rates of harassment are likely even higher, particularly for men.



Explain the Types of Sexual Harassment

Quid pro quo (“this for that” in Latin) when someone conditions a job, promotion, or other work benefit on submission to sexual advances or other conduct based on sex, gender, or sexual orientation.

Hostile work environment occurs when unwelcome comments or conduct based on sex or gender create an intimidating, hostile, or offensive work environment.



SEXUAL HARASSMENT

FACT SHEET



Civil Rights
Department
STATE OF CALIFORNIA

ACOSO SEXUAL



Civil Rights
Department
STATE OF CALIFORNIA

Provide each employee with a copy of the CRD-185 form.

Sexual harassment is a form of discrimination based on sex/gender (including pregnancy, childbirth, or related medical conditions), gender identity, gender expression, or sexual orientation. Individuals of any gender can be the target of sexual harassment. Unlawful sexual harassment does not have to be motivated by sexual desire. Sexual harassment may involve harassment of a person of the same gender as the harasser, regardless of either person's sexual orientation or gender identity.

THERE ARE TWO TYPES OF SEXUAL HARASSMENT

1. "Quid pro quo" (Latin for "this for that") sexual harassment is when someone conditions a job, promotion, or other work benefit on your submission to sexual advances or other conduct based on sex.

2. "Hostile work environment" sexual harassment occurs when unwelcome comments or conduct based on sex unreasonably interferes with your work performance or creates an intimidating, hostile, or offensive work environment. You may experience sexual harassment even if the offensive conduct was not aimed directly at you.

The harassment must be severe or pervasive to be unlawful. A single act of harassment may be sufficiently severe to be unlawful.

Complaining about harassment is also unlawful.

Employees or job applicants who believe that they have been sexually harassed or retaliated against may file a complaint of discrimination with CRD within three years of the last act of harassment or retaliation.

CRD serves as a neutral fact-finder and attempts to help the parties voluntarily resolve disputes. If CRD finds sufficient evidence to establish that discrimination occurred and settlement efforts fail, the Department may file a civil complaint in state or federal court to address the causes of the discrimination and on behalf of the complaining party. CRD may seek court orders changing the employer's policies and practices, punitive damages, and attorney's fees and costs if it prevails in litigation. Employees can also pursue the matter through a private lawsuit in civil court after a complaint has been filed with CRD and a Right-to-Sue Notice has been issued.

EMPLOYER RESPONSIBILITY & LIABILITY

All employers, regardless of the number of employees, are covered by the harassment provisions of California law. Employers are liable for harassment by their supervisors or agents. All harassers, including both supervisory and non-supervisory personnel, may be held personally liable for harassment or for aiding and abetting harassment. The law requires employers to take reasonable steps to prevent harassment. If an employer fails to take such steps, that employer can be held liable for the

El acoso sexual es una forma de discriminación por motivos de sexo/género (incluyendo embarazo, parto o condiciones médicas relacionadas), identidad de género, expresión de género y orientación sexual. Personas de cualquier género pueden ser víctimas de acoso sexual. No necesariamente el acoso sexual ilegal está motivado por el deseo sexual. El acoso sexual puede ser a una persona del mismo género que el del acosador, sin importar la orientación sexual o la identidad de género de la persona.

HAY DOS TIPOS DE ACOSO SEXUAL

1. El acoso sexual quid pro quo (en latín, "esto por eso") es cuando alguien condiciona un trabajo, ascenso u otro beneficio laboral a la sumisión a insinuaciones sexuales u otra conducta sexual.

2. El acoso sexual en un "ambiente de trabajo hostil" es cuando comentarios o conductas sexuales no deseados interfieren sin razón en el desempeño laboral o crean un entorno de trabajo intimidante, hostil u ofensivo. Puede recibir acoso sexual incluso si la conducta ofensiva no estaba dirigida directamente a usted.

El acoso debe ser grave o generalizado para ser ilegal. Un solo acto de acoso puede ser lo suficientemente grave para ser ilegal.

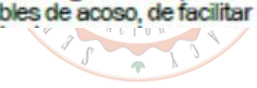
EL ACOSO SEXUAL INCLUYE MUCHAS

Las represalias reales o las amenazas de represalias por rechazar insinuaciones o por quejarse de acoso también son conductas ilegales.

Los empleados o postulantes que crean que fueron acosados sexualmente o que recibieron represalias pueden presentar una queja por discriminación ante el CRD en un plazo de tres años desde el último acto de acoso o represalia. El CRD funciona como un buscador neutral de hechos e intenta ayudar a que las partes resuelvan las disputas voluntariamente. Si el CRD encuentra pruebas suficientes para determinar que hubo discriminación y los esfuerzos por llegar a un acuerdo no funcionan, el Departamento puede presentar una denuncia civil ante un tribunal estatal o federal para tratar las causas de la discriminación y en defensa de la parte demandante. El CRD puede pedir órdenes judiciales que cambien las políticas y prácticas del empleador, daños punitivos y los honorarios y costos de abogados si gana el litigio. Los empleados también pueden seguir el asunto a través de una demanda privada ante un tribunal civil después de que se haya presentado una queja ante el CRD y se haya emitido una notificación de derecho de demandar.

RESPONSABILIDADES Y OBLIGACIONES DEL EMPLEADOR

Todos los empleadores, independientemente de la cantidad de empleados, están cubiertos por las disposiciones sobre acoso de la ley de California. Los empleadores son responsables del acoso por parte de sus supervisores o agentes. Se podrá considerar personalmente responsables de acoso, de facilitar



Quid Pro Quo – ‘This for that’

Someone in a **position of power** (e.g. a supervisor) offers or requires sexual conduct/favors in return for job benefits.

Or, if an employee rejects sexual advances and faces negative consequences.

- Can be explicit or implicit.
- Other workers may report discrimination due to preferential treatment.
- A consensual relationships that ends badly can lead to unfair treatment.
- Even consensual behavior outside of work can create huge legal liabilities.



Quid Pro Quo Can Be Very Confusing

Many do not understand well what is, and is not, quid pro quo harassment.

- Explain the importance of the imbalance of power.
- Give multiple examples.
- As participants to explain their understanding to verify comprehension.
- Ask questions with scenarios.



Is it Quid Pro Quo Sexual Harassment When....

A worker offers to help their coworker with their job duties, in return for sexual favors? **No: QPQ requires a power imbalance. But this IS sexual harassment- report it!**

A supervisor offers a worker on their crew better shifts, if they agree to go out for a drink after work? **Yes, quid pro quo.**

A worker threatens to complain to management if a supervisor declines to go out with them? **No: QPQ is when the supervisor uses their position of power over the worker. However, this IS sexual harassment- report it!**



Hostile Work Environment

When a coworker, supervisor, or **anyone** creates an intimidating, hostile, or offensive work environment or unreasonably interferes with employee's work based on the victim's sex, gender, or sexual orientation.

No matter the intention, the behavior will be judged based on its impact on the victim.

Offensive acts or conduct can be:

- Physical
- Verbal
- Non-verbal
- Aimed directly at an individual, or not

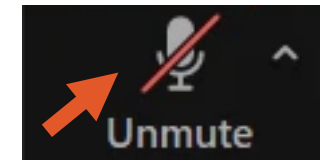


Examples of Harassing or Discriminatory Behavior

- Physical
- Verbal
- Non-Verbal or Visual



Click on the microphone to unmute



Physical Sexual Harassment

- Unwelcome inappropriate touch (hugging, 'brushing by', caressing, etc.)
- Groping or other aggressive touching: Sexual Assault, call 9-1-1
- Cornering or blocking
- Stalking or following
- Sniffing hair?



Verbal Sexual Harassment

- Profanity (locker room talk) – Obscene or degrading terms
- Inappropriate use of terms of endearment (honey, baby)
- Obscene jokes
- Cat calls or whistling
- Spreading rumors or gossip about a person's sex life
- Sexually suggestive remarks about a person's body or clothing
- Persistent request for dates
- Radio programs or music with sexual or inappropriate content



Non-Verbal Sexual Harassment

- Gestures made with intentional sexual overtones
- Staring, leering, blowing kisses, licking lips
- Pictures, posters, “pinup” calendars, drawings, screensavers, cell phone lock screens.
- Texting, sexting, emails with obscene messages or images.



It's just a joke!

It was a compliment!



Case Study: Consensual Relationships

At the supermarket, a mayordomo runs into one of the workers he supervises and she invites him to a barbecue with her family. They start going out regularly, but decide that their personal life should be kept separate from work. They remain cordial, respectful, and professional while at work.

-- 5 minutes in groups --

What should the supervisor take into consideration?

What are the potential consequences?

Does your company have a policy for similar cases?

Encourage participation,
be interactive!



Explain the Legal Protections for Sexual Orientation & Gender Identity

The California Civil Rights Department enforces laws that protect you from illegal discrimination and harassment in employment based on your actual or perceived:

- Ancestry
- Age (40 or above)
- Color
- Disability
- Genetic information
- **Gender identity or expression**
- Marital status
- Medical condition
- Military or veteran status
- National origin
- Race
- Religion
- Sex/gender*
- **Sexual Orientation**

*Includes pregnancy, childbirth, breastfeeding



Emphasize the Importance of the Protections

US Supreme Court ruling made it illegal in ALL STATES for employers to discriminate against an individual based on sexual orientation or gender identity including:

- Lesbian
- Gay
- Bisexual
- Transgender

June 15, 2020: *BOSTOCK v. CLAYTON COUNTY, GEORGIA*



Sexual Orientation

Sexual orientation is based on the attraction (romantic, emotional, sexual) a person feels. Sexual orientations include:

Heterosexual: attracted to a different gender ('straight')

Homosexual: attracted to the same gender ('gay', 'lesbian')

Bisexual: attracted to both men and women

Asexual: not sexually attracted to any gender

And more...

Opportunity to invite participation.



Address Issues of Opinions and Personal Beliefs

- Groups are protected by law against discrimination.
- Focus on the legal regulations and company policy.
- Consider putting yourself in their place, or if it was a loved one.
- Everyone deserves a respectful workplace.

When you are training do not make discriminatory jokes- be an example of good behavior.



Explain Gender Identity/Expression

Transgender: **gender identity differs from the sex assigned at birth.**

Sex = assigned at birth based on physical characteristics
Gender = Cultural

It is illegal to discriminate against someone because they identify (or are perceived) as trans or gender non-conforming.



Trans is Not “New” or “Fashionable”



Amelio Robles Ávila
Colonel in the Mexican Revolution
Born 1889



Alan L. Hart
Pioneered use of x-rays for
diagnosing tuberculosis
Born 1890



Transgender Work Opportunity Act

Required Posting on Transgender Rights

calcivilrights.ca.gov/Publications



CALIFORNIA LAW PROTECTS TRANSGENDER AND GENDER NONCONFORMING PEOPLE FROM DISCRIMINATION, HARASSMENT, AND RETALIATION AT WORK. THESE PROTECTIONS ARE ENFORCED BY THE CIVIL RIGHTS DEPARTMENT (CRD).

and other facilities should always be a matter of choice. Employees should never be forced to use one, as a matter of policy or due to harassment.

5. Does an employee have the right to be addressed by the name and pronouns that correspond to their gender identity or gender expression, even if different from their legal name and gender?

Yes. Employees have the right to use and be addressed by the name and pronouns that correspond with their gender identity or gender expression. These are sometimes known as "chosen" or "preferred" names and pronouns. For example, an employee does not need to have legally changed their name or birth certificate, nor have undergone any type of



Train to Legal Regulations: Lived Name and Pronouns

If an employee requests to be identified with a preferred gender, name, and/or pronoun, including gender-neutral pronouns [even if a legal change has not been made], **an employer who fails to abide by the employee's stated preference may be liable** under the Act, except...

An employer is permitted to use an employee's gender or legal name as indicated in a government-issued identification document **only if it is necessary to meet a legally-mandated obligation** (e.g. W-2 or I-9) but otherwise must identify the employee in accordance with the employee's gender identity and preferred name.

California Code of Regulations, Title 2, Section 11034



Dress Codes

What is the purpose of having a dress code?

Can a dress code state that **women** cannot wear thin/tight leggings to work?

All workers cannot wear thin/tight leggings to work.

Can you tell a worker they cannot wear a skirt ~~because they are trans?~~

No worker can wear a skirt because clothing cannot be loose and risk getting caught in machinery.

**A dress code cannot discriminate
against a protected group.**



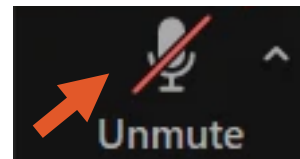
Bathroom Regulations

By law, an employer **cannot direct employees which bathroom to use** nor require any ‘proof’.

During your supervisor training, a mayordomo says he has had a worker complain and get upset because someone used the ‘wrong’ bathroom.

How would you address this?

Click on the microphone to unmute





Bullying as Harassment

Bullying and abuse (from supervisors or coworkers) is ‘conduct with malice that a reasonable person would find hostile, offensive, threatening, intimidating, or humiliating’ such as:

- Verbal abuse (derogatory remarks, insults, epithets)
- Physical conduct
- Gratuitous sabotage or undermining of a person’s work performance



Types of Abuse & Bullying

Bullying can take many forms:

- Body language
- Tone of voice
- Harsh criticism
- Nicknames or teasing
- Work Assignments
- Isolating workers including lunches, breaks
- Social media (texting, email, Facebook, etc.)

Opportunity to ask for examples/experiences



Remember:

Effect on victim matters, not necessarily intent of perpetrator.



Impacts of Bullying

- Inability to concentrate.
 - Preoccupied about avoiding the bully, defending themselves, thinking about the situation, etc.
- Low motivation.
- Low productivity.
- Creating a hostile/uncomfortable environment for the other workers.
- Negative impacts on physical and mental health.
- Higher turnover of employees.
- Bad reputation for supervisor and the company.
- Higher risk of legal action.



Explain What is NOT Bullying

Decisions/actions for the improvement of work performance/business and undertaken with respect such as:

- Performance evaluations
- Discussions or disciplinary action to correct behavior
- Changing job functions as necessary



Explain Remedies for the Harassed

- Tell Harasser to stop
 - Not required: a victim might feel unsafe confronting their harasser.
- In the event of sexual assault call 9-1-1
- Report to employer per harassment policy
 - There must always be multiple people to whom they can report.
- If unsatisfied, can file a complaint with CaCRD **within 3 years.**

Why is it important to have multiple options to report to?



Explain Limited Confidentiality

You cannot promise complete confidentiality.

Should maintain confidentiality as much as possible, and only share information on a need to know basis.

It is necessary to share information to investigate and respond to the complaint.



Explain the Role of Ca CRD

Have the right to file a complaint with CaCRD (within **3 years**).

- CaCRD investigates and attempts to reach a settlement if necessary.
- If settlement is not reached CaCRD can file a formal accusation, which leads to a public hearing before the Commission or lawsuit and subsequent fines, hearing or reinstatement, backpay or promotion.
- CaCRD may also issue “right-to-sue notice” allowing harassed to pursue a private lawsuit.



Legal Obligations for Employees

- Follow the company's policy.
- Do not harass or discriminate.
- Report any harassment they see or experience. Report any discriminatory or harassing behavior to HR or management.
- Create a good culture.



Explain the importance

- Understand the problem so they can identify it when they see it.
- Feel accountable and responsible to help.
- Know how to help:
 - Disrupt the situation.
 - Distraction may allow the victim to get away.
 - Get support, call on others to help.
 - Confront the harasser in a respectful direct way that their words or actions are not acceptable.
 - That's inappropriate, please stop.
 - Report the incident.



Legal Obligations for Supervisors

- Take reasonable measures to prevent and/or correct any inappropriate behavior
- Report any harassment they see or are informed of to HR or management..
- Take all claims of harassment/discrimination seriously.
 - Complaints can be made up to 3 years after the fact.**
- Do not promise to keep secrets: explain limited confidentiality and the process of claims/investigations.
- Be a good role model by creating a good culture.

Favoritism isn't necessarily illegal, but it can cause serious and expensive problems.



Explain Vicarious Liability

Vicarious liability is imposed on one party for the wrongful acts of another party due to a special legal relationship between the two.



For example: an employer can be held vicariously liable for the behavior of its supervisory staff that qualifies as sexual harassment.

Even if it happens outside of work!



Explain Potential Consequences

Employers have a range of corrective measures at their disposal:

- Varying disciplinary actions based on findings
- Suspension
 - With or without pay
 - During investigation or longer
- Transfer harassing employee
- Termination

Consider the impact for you and your family.



Explain the Rules Against Retaliation

An employer may not fire, demote, harass or otherwise "retaliate" against an individual for

- Filing a charge of discrimination.
- Participating in a discrimination proceeding.
- Opposing discrimination.

Why is it important to understand the rules against retaliation?

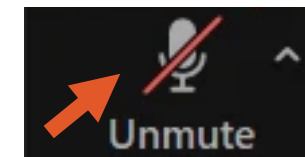
For employees?

For supervisors?

For victims?

For harassers?

*Click on the microphone
to unmute*



California Labor Code sections 98.6, 230(c), 244, 1019, 1197.5
Federal Laws: Title VII of Civil Rights Act, Equal Pay Act



Emphasize the Impacts of Retaliation

In 2019, a packing shed worker in Salinas was sexually harassed by his supervisor. After reporting the physical sexual assault to the police, he was fired.

The worker consulted the CRLA and a complaint was filed with the CRD.

The FLC settled the claim for \$600,000.

The settlement required a third-party monitor the FLC and report to CRD for three years, and the Grower for two years.



Tips for Reporting for Supervisors

Take all complaints of harassment/discrimination seriously.

Supervisors may handle issues of minor harassment. Always document the incident, how you responded, and inform HR.

Involve Human Resources immediately when:

- The harassment is serious or not.
- If another supervisor is the harasser.
- If the harassment is persistent or continual.
- When someone makes a complaint against you.
- If you are uncertain what you should do or how to respond.



Training How to Report: Focus on the Facts

- What happened?
- When and where did it happen?
- Who was involved?
- What did the accused do or say?
- What did the victim/acuser say or do?
- Were there witnesses?
- Do not promise to keep secrets: explain limited confidentiality and the process of reporting/investigating.



Supervisors' Role in Investigating Complaints

- Report and properly document- coordinate with HR.
- Don't take sides.
- Suggest/identify who to interview.
- Inform interviewees of **limited confidentiality**.
- Confirm that everyone understand the policy of **non-retaliation**.
- Do not communicate with the accused until the investigation is complete.
- Get authorization from HR before allowing the accused back to work.
- Create a safe work environment.



What is the most difficult part about giving a sexual harassment training?

-- 5 minutes in groups --

Which topic is the most difficult to explain?

Where do you find participants have the most questions?

What do you do if they aren't participating or paying attention?

Other challenges?



Sexual Harassment Training Requirements for NON FLCs

- **1-hour for non-supervisory temporary or seasonal employees (contracted for less than 6 months)**
 - Within 30 calendar days or 100 hours worked (whichever comes first)
 - And then every two years
- **2-hours for supervisors and managers**
 - Within 6 months of assuming position
 - And then every calendar year

[Labor Code Section 12950.1 \(h\)\(1\)](#)



Sexual Harassment Training Requirements for FLCs

- 1-hour for non-supervisory employees
 - **At time of hire**
 - And then every two years
- 2-hours for supervisors and managers
 - **Within 30 days (or 100 hours)** of assuming position
 - And then every calendar year

[SB 1343 passed in 2018](#)



Tips from the Labor Commissioner to Comply

STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS
Headquarters Office

1515 Clay Street, Room 401
Oakland, CA 94612
Tel.: (510) 285-2118 Fax: (510) 285-1365

Gavin Newsom, Governor

MAILING ADDRESS:
P. O. Box 420603
San Francisco, CA 94142-0603



April 2019

Patricia Huber, *Assistant Chief*
Division of Labor Standards Enforcement

The training for supervisors does not need to be completed in two consecutive hours. The minimum duration of a training segment shall be no less than half an hour.

Non-supervisors: may be completed in shorter segments, as long as the applicable hourly total requirement is met.



Definition of a Supervisor

www.dfeh.ca.gov/resources/frequently-asked-questions/employment-faqs/sexual-harassment-faqs/

- a) Any person with the **authority to hire, fire, assign, transfer, discipline, or recompense** other employees.

- b) Any person with the **authority to recommend** (but not necessarily take) **these actions** if the execution of that authority requires the use of independent judgement.



Training Requirements

- Provided by a qualified instructor in a language understood by the employees.
- Must be interactive
 - e. g. include examples to discuss, ask questions of the participants, invite questions.
- Provide instructions on how to communicate with a trainer that can respond to questions within two business days.



Who is Qualified to Provide Training?

Three categories of persons are qualified to deliver training:

- ✓ Attorneys
- ✓ Professors or instructors
- ✓ Human resource professionals or harassment prevention consultants

For each category, the trainer must have at least two years of experience.

www.dfeh.ca.gov/resources/frequently-asked-questions/employment-faqs/sexual-harassment-faqs/



Human Resources Professionals or Harassment Prevention Consultants

Defined by having worked as employees or independent contractors with a **minimum of two or more years of practical experience in one or more of the following:**

- Designing or **conducting discrimination, retaliation, and sexual harassment prevention training.**
- Responding to sexual harassment complaints or other discrimination complaints.
- Conducting investigations of sexual harassment complaints.
- Advising employers or employees regarding discrimination, retaliation and sexual harassment prevention.



Who Certifies Trainers?

Sexual Harassment Prevention Training: Information For Employers

FAQ

- **Does DFEH have a list of approved outside training providers, or can DFEH recommend or approve an outside training provider for my company to use?**

DFEH does not approve training providers. DFEH cannot offer recommendations or approvals for other training providers.

- **I believe I may be eligible to become a trainer; how can I verify this?**

There is currently no certification requirement for qualified trainers, and DFEH is unable to provide guidance as to whether one meets the qualifications of a trainer.



Trainers Must Have Knowledge Of

- What constitutes illegal harassment, discrimination, and retaliation according to the Ca CRD and federal and state laws.
- The obligations of the employer.
- How to report complaints.
- How to respond to a complaint of harassment/discrimination.
- What constitutes retaliation and how to prevent it.
- Essential components of an anti-harassment policy.
- The effect of bullying on harassed employees, coworkers, harassers, and employers.



Training Content for Workers

- Illegality of sexual harassment
- Definition of harassment under state and federal law
- Description of harassment with examples
- Internal complaint procedures
- Legal remedies available through Ca CRD
- How to contact Ca CRD
- Protection against retaliation
- Protections based on gender identity & sexual orientation
- Disciplinary Action and Consequences
- Creating a good culture



Supervisor Training Content

- Illegality of sexual harassment
- Definition of harassment under state and federal law
- Description of harassment with examples
- Internal complaint procedures
- Legal remedies available through Ca CRD
- How to contact Ca CRD
- Protection against retaliation
- Protections based on gender identity & sexual orientation
- Disciplinary action and consequences
- Creating a good culture-be a good model
- The obligation for supervisors to report harassment.
- Abusive conduct/bullying.



Poll Question 3:

Non supervisory FLC employees must be trained:

- a) As soon as possible.
- b) Within 30 days of hire.
- c) Within a week of hire.
- d) At time of hire.



Required Proof of Training to Each Employee

State of California

Department of Industrial Relations
DIVISION OF LABOR STANDARDS ENFORCEMENT



FARM LABOR CONTRACTOR EMPLOYEE RECORD OF TRAINING IN SEXUAL HARASSMENT IDENTIFICATION AND PREVENTION

I, _____, a _____ for _____
(Employee name) (Title) (Farm Labor Contractor Employer)

was provided training in the identification, prevention, and reporting of sexual harassment in the
workplace on _____.
(Date training provided)

Training was provided by: _____.
(Name of person providing training)



Tips for Effective Trainings

- Minimize distractions.
- Establish expectations: duration, time for questions, etc.
- Introduce the topic.
 - Explain the relevance and importance for the workers.
- Encourage participation
 - Instead of giving the answer immediately, ask the group.
 - During, and at the end, ask questions to verify understanding.
- Use examples, stories.
 - Ask the group if they know of examples related to the topic.
- Use photos, pictures, handouts.



More Effective Training Tips

- Repeat and review key topics to emphasize.
- Give time for questions from the audience.
- Maintain open communication.
 - Provide feedback early and continue communicating with te employee.
 - Ask their opinion (to improve future trainings).
- Give frequent reminders- it's not one and done.



Handling Disruptive People

Keep an eye on your audience- don't let someone interrupt too much, distract others, or make your training less effective. Do not permit

- Off topic questions.
- Side conversations.
- Taking calls/texting.
- Obviously not paying attention.



If a worker is being disruptive, remind them to stay on topic, hold questions to the end, or offer to follow up with them later.



Give a Quiz to Verify Understanding

Who are the EEOC and Ca CRD? - What do they do?

Would it be harassment to comment on the appearance of a coworker?

Can you ask a coworker to go out with you?

Would it be a problem that a mayordoma asks a worker on her crew to dinner?

What are the two types of sexual harassment?

What are the three types of behavior that can create a hostile work environment?

Could you be accused and responsible for harassment for an incident that happened outside of work?

What can supervisors do to prevent and correct harassment?



Tools for Training



El padre, su hija y el mayordomo

Kimberly Y. Prado¹ Dra. María Elena Rivera Heredia² Dr. Stephen A. McCurdy¹
¹Universidad de California Davis, ²Universidad Michoacana de San Nicolás de Hidalgo

“El padre, su hija y el mayordomo” es un cuento sobre el acoso sexual laboral que ocurre en el trabajo agrícola y está dirigido a campesinos. Esto es algo que sucede más de lo pensamos en el trabajo. Descubre este cuento corto, basado en pláticas con campesinos, quienes saben que el acoso sexual se necesita reconocer y se debe parar para el bienestar de las personas que ahí trabajan. Es un cuento para campesinos con valores sobre caballerosidad, cortesía, y respeto.

Prevencción de Acoso Sexual

aghealth.ucdavis.edu/training

¿Qué es acoso sexual?

El acoso sexual es una forma ilegal de discriminación y “bullying”.

Algunos ejemplos son:

- Pedir favores sexuales
- Intimidación o amenazas
- Comentarios ofensivos
- Piropos groseros
- Caricias no deseadas
- Imágenes sugestivas
- Gestos vulgares
- Avances sexuales no deseados

¿Qué puedes hacer?

➔ **Dígale al acosador que PARE**

➔ **ANOTE:**

- Fecha
- Hora
- Breve descripción
- Nombres de testigos

➔ **REPÓRTELO A:**

- Recursos humanos
- Un supervisor
- Un gerente

Si la situación no se resuelve, **REPÓRTELO a:**

California Department of Fair Employment (800) 884-1684

Equal Employment Opportunity Commission (800) 669-4000

UC DAVES
Western Center for Agricultural Health and Safety

THE RIGHTS OF EMPLOYEES WHO ARE TRANSGENDER OR GENDER NONCONFORMING

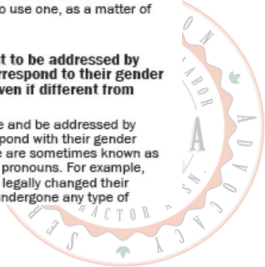
Civil Rights Department
STATE OF CALIFORNIA

CALIFORNIA LAW PROTECTS TRANSGENDER AND GENDER NONCONFORMING PEOPLE FROM DISCRIMINATION, HARASSMENT, AND RETALIATION AT WORK. THESE PROTECTIONS ARE ENFORCED BY THE CIVIL RIGHTS DEPARTMENT (CRD).

and other facilities should always be a matter of choice. Employees should never be forced to use one, as a matter of policy or due to harassment.

5. Does an employee have the right to be addressed by the name and pronouns that correspond to their gender identity or gender expression, even if different from their legal name and gender?

Yes. Employees have the right to use and be addressed by the name and pronouns that correspond with their gender identity or gender expression. These are sometimes known as “chosen” or “preferred” names and pronouns. For example, an employee does not need to have legally changed their name or birth certificate, nor have undergone any type of

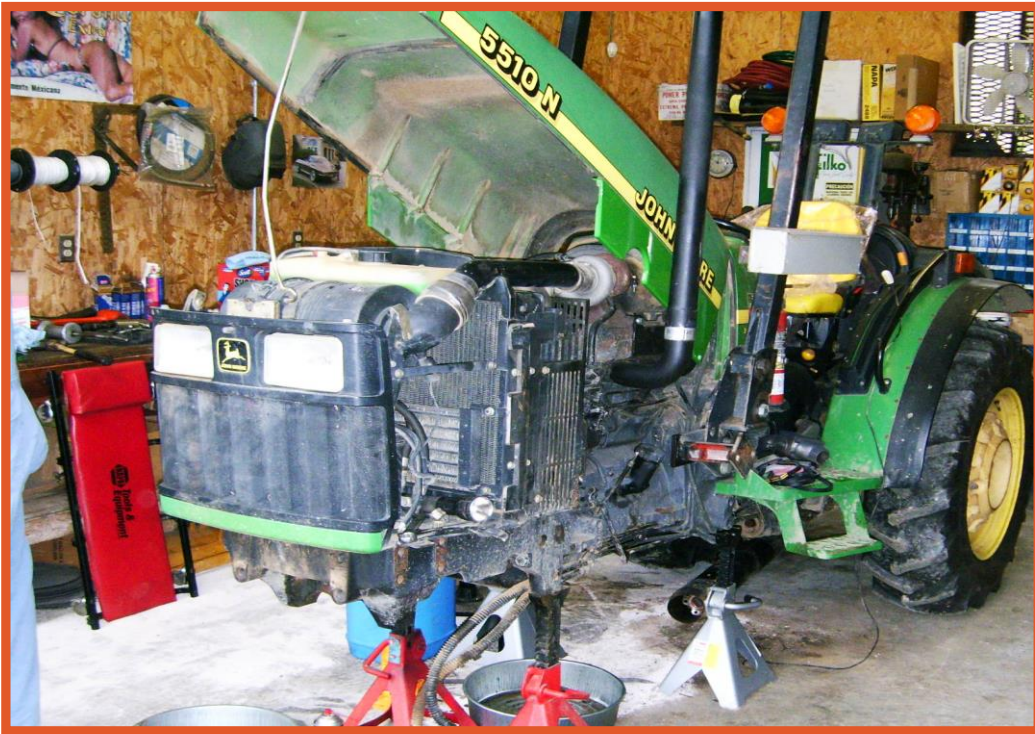


Resources for Training

- CaCRD Posters y Publications
www.calcivilrights.ca.gov/Posters
- UC Davis Ag Health & Safety Center
aghealth.ucdavis.edu/educational-materials
- Líderes Campesinas (video, guide, photo novel)
www.farmworkerjustice.org/advocacy_program/health-awareness-and-prevention-sexual-harassment-violence/



Training Requires Follow Up & Enforcement



Enforcing the Policy

- Make sure that everyone understand the policy, their rights, and behavioral expectations.
- Make sure every employee knows the procedure to make a complaint.
 - Including the multiple options of who they can report to.
- Talk about possible repercussions:
 - Disciplinary measures from the company.
 - Impacts on individuals, families, and the company.
- Be a good example.
- Frequent reminders (e.g. tailgates)



Questions?

Click the microphone to unmute or type your questions into the chat

