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# Harassment in the Workplace

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- As a result of this learning activity, you will be able to:
  - Define various forms of harassment
  - Describe what should happen to stop harassment
  - List a variety of ways to stop harassment

## LEARNING OBJECTIVES

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- Know the different types of harassment.
- Understand whose job it is to **STOP** harassment.
- Understand what is expected when harassment occurs
- Know HOW to deal with harassment when it happens.
- Realize the importance of the policies and the law.
- Cause self-examination of attitudes, beliefs, and actions toward those who are different.

## AGENDA

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**MYTH:** Sexual harassment is rare.

**FACT:** Sexual harassment is extremely widespread. It touches the lives of 40 to 60 percent of working women, and similar proportions of female students in colleges and universities.

### Myth V Fact

**MYTH:** If you ignore harassment, it will go away.

**FACT:** It will not. Research has shown that simply ignoring the behavior is ineffective — harassers generally will not stop on their own. Ignoring such behavior may even be seen as agreement or encouragement.

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**MYTH:** The seriousness of sexual harassment has been exaggerated. Most so-called harassment is really trivial and harmless flirtation.

**FACT:** Sexual harassment can be devastating. Studies indicate that most harassment has nothing to do with flirtation, or sincere sexual or social interest. Rather, it is offensive, often frightening and insulting to women. Research has shown that many women are often forced to leave school or a job to avoid further harassment, and can experience serious psychological and health-related problems.

### Myth V Fact

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**MYTH:** Women generally provoke sexual harassment by the way they look, dress and behave.

**FACT:** Harassment does not occur because women dress provocatively or initiate sexual activity in the hope of getting promoted and advancing their careers. Studies have found that victims of sexual harassment vary in physical appearance, dress type, age and behavior. The only thing they have in common is that the overwhelming majority are women.

### Myth V Fact

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**MYTH:** Many women make up and report stories of sexual harassment to get back at their employers or others who have angered them.

**FACT:** Research shows that less than one percent of complaints are false. Women rarely file false complaints and often do not file even when justified.

## Myth V Fact

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- **BULLYING** is systematically and chronically inflicting physical hurt and/or psychological distress. Bullying is not just child's play. It can be as direct as teasing, hitting or threatening, or as indirect as in rumors, exclusion, or manipulation.



## Bullying

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- The deliberate use of
  - Aggressive
  - Intimidating
  - Humiliating
  - Demeaning
 Language or actions.



## Work Place Bullying

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- Diversity Expansion
- Gender Sensitivity
- Culture Sensitivity
- Train employees on the importance of accommodating each other.
- Help those who have been bullied to manage anger and frustration. This can only be achieved after the employer had worked to end the bullying.

## Ways to discourage Workplace Bullying

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- **CYBER BULLYING** is bullying over the Internet, via email, text messaging, and similar technological modes of communication. Cyber bullying includes sending or posting harmful material or engaging in other forms of social aggression.

## Cyber Bullying

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- **SEXTING** applies to the act of creating, sending, posting and disseminating sexually suggestive text messages, pictures or videos of oneself or others. It is generally done via cell phones, but computers, web cams, digital cameras and other electronic devices are also used.



## Sexting

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- Illegal harassment is severe or pervasive verbal or physical conduct that denigrates, shows hostility or aversion toward an individual because of his/her race, color, religion, gender, national origin, age, disability, or reprisal for participating in the EEO process.
- The EEOC defines sexual harassment as unwelcome verbal or physical conduct of a sexual nature:
  - When submission to such conduct is made a term of condition of employment;
  - When submission to or rejection of such conduct is used as a basis for employment decisions;
  - When such conduct unreasonably interferes with job performance or creates an intimidating, hostile, or offense work environment.

## **Harassment**

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**THE PREVENTION/  
ELIMINATION OF HARASSMENT  
IS  
EVERYONE'S  
RESPONSIBILITY.**

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★★★★★  
**REVIEW**

**Question and Answer Time**

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# Harassment in the Workplace

## Module 2

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- Know the different types of harassment.
- **Understand whose job it is to *STOP* harassment.**
- Understand what is expected when harassment occurs
- Know HOW to deal with harassment when it happens.
- Realize the importance of the policies and the law.
- Cause self-examination of attitudes, beliefs, and actions toward those who are different.

## AGENDA

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“Sexual Harassment is an unwelcome sexual advance, unwelcome request for sexual favors or other unwelcome conduct of a sexual nature which makes a person feel offended, humiliated or intimidated”

## Sex Discrimination Act (1984)

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- The potential for harassment, including sexual harassment exists in every workplace.
- While some individuals may feel that ‘harassment’ means only “sexual harassment”, it has become clear that in today’s work environment the term is much broader than that.
- Harassment is a costly proposition for employers. It can result in: low morale, absenteeism, reduced productivity, employee turnover, and damages and litigation costs.

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- The EEOC, in its 2001 technical assistance guidance publication: “Employer EEO Responsibilities,” stressed:
  - “Harassment of an individual on the basis of race, color, sex, national origin, religion, age or disability is a discriminatory practice under Title VII, the ADA and the ADEA.
  - Although much attention has been given in recent years to sexual harassment discrimination, it is important to stress that many of the same principles apply to other types of harassment, and an employer should be equally vigilant in preventing such harassment”.

## Harassment Prevention

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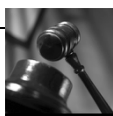
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- Title VII of the Civil Rights Act of 1964 (Title VII):
  - Prohibits discrimination based on race, color, religion, sex, and national origin.
  - Unlawful to discriminate in such areas as recruitment, selection, promotion, discipline, training, and details, and etc.
- The Equal Pay Act of 1963 (EPA): Protects men and women who perform substantially equal work from sex-based wage discrimination.
- The Age Discrimination in Employment Act of 1967 (ADEA): Prohibits employment discrimination against individuals who are 40 years of age or older.




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- **Rehabilitation Act of 1973:**
  - Sections 501 and 505 prohibit discrimination in Federal employment against qualified individuals with disabilities.
  - Also requires employers to provide to "reasonable accommodation" to qualified individuals with disabilities who are employees or applicants for employment.
- **Civil Rights of 1991:** Provides rights to jury trials and monetary damages in cases of employment discrimination.
- The **NO FEAR Act:** Prohibits discrimination and retaliation against Federal workers for participating in EEO process or whistle-blower activities.
- Requires posting of complaint activity, training, and paying settlements or judgments out of agency operating funds.

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- **California** Assembly Bill 2053 Chapter 306 Amend Section 12950.1 of the Government Code 2014
- **Maine** Title 26: Labor and Industry
- Chapter 7: Employment Practices Subchapter 4-B: Sexual Harassment Policies Heading: PL 1991, C. 474, §2 (NEW)
- **Connecticut** Sections 46a-60(a) (8) of Connecticut General Statutes

### **3 States Require Sexual Harassment Training**

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**Do not become  
the next news  
story.  
Or worse the  
next court  
case....**

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- A management official's harassment that results a significant change in an individual's employment status (e.g., hiring, firing, promotion, failure to promote, demotion, undesirable reassignment).
- **Only** management officials or other individuals designated to perform supervisory functions (e. g., scheduling, approving vacation, evaluating performance) can commit this type of harassment.
- A company is **automatically liable** for this type of harassment **regardless** of whether upper management had knowledge of it.

### **HARASSMENT THAT RESULTS IN A TANGIBLE EMPLOYMENT ACTION**

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### **• What type of behaviors constitutes harassment??**

- Unfortunately the answer to that is not always clear or the same for everyone.

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- Comments or conduct that have the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating or offensive working environment.
- This category of harassment is often more subtle than harassment that results in a tangible employment action, and is often more difficult to determine where the line falls between lawful and unlawful.
- The key issues here are frequency and severity.
- "Reasonable person" standard governs.
- Anyone can commit this type of harassment - a management official, coworker or non-employee.

### **HOSTILE ENVIRONMENT HARASSMENT**

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- Pressure for dates
- Making offensive remarks about looks, clothing, body parts
- Touches in a way that may make an individual feel uncomfortable
- Telling sexual jokes, hanging sexual posters
- Using racially derogatory words, phrases, epithets
- Demonstrations of a racial or ethnic nature such as the use of gestures, pictures or drawing which would offend a particular racial or ethnic group

### **Examples....**

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- Comments about an individual's skin color or other racial/ethnic characteristics
- Negative comments about an employee's religious beliefs
- Negative stereotypes regarding an employee's birthplace or ancestry
- Negative comments an employee's age when referring to employees 40 and over; (Age Discrimination)
- Derogatory or intimidating references to an employee's mental or physical impairment.

### **Examples....**

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### **Types of Harassment**

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## REVIEW

### Question and Answer Time

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## Harassment in the Workplace

### Module 3

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- Know the different types of harassment.
- Understand whose job it is to ***STOP*** harassment.
- Understand what is expected when harassment occurs
- Know HOW to deal with harassment when it happens.
- Realize the importance of the policies and the law.
- Cause self-examination of attitudes, beliefs, and actions toward those who are different.

### AGENDA

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- Conduct must affect a term, condition, or privilege of employment.
- Must be unwelcome.
- Can be based on race, color, religion, national origin, sex, sexual orientation, age or disability.
- Is severe or pervasive under a reasonable person standard.

## **Key Elements in a Compliant**

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### **Hostile Environment Harassment**

- If behavior of a sexual nature creates an offending, intimidating, or hostile work environment for another employee, **it is sexual harassment.**

### **Same-sex Harassment**

- In 1998 the Supreme Court stated that same-sex harassment is illegal and will not be tolerated.

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### **Co-worker Harassment**

- The agency is liable if it knew or should have known of the harassment and failed to take immediate and appropriate corrective action.

### **Quid Pro Quo**

- A supervisor demands sexual favors in return for better treatment of a subordinate, or threatens the subordinate with firing, demotion, or transfer unless sexual favors are given.

## **Co-Worker Harassment**

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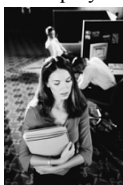
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- Behavior not found offensive by some employees can facilitate an offensive environment for other employees.



- Example:  
A group of employees talking about each other's sex lives in the presence of another person who feels very uncomfortable about such discussion.

### **Third Party Harassment**

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- Non-employees:
  - The liability standard for non-employees is the same as for employees - Except consideration is given to the extent of the agency's control over the non-employee. For example, an agency may not be able to control the actions of a one-time visitor to its workplace, but it would be able to correct harassment by an independent contractor with whom it has a regular relationship.

### **Non-employee Harassment**

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- Verbal: derogatory comments, racial or sexual epithets, requests for sexual favors, sexual innuendoes, offensive jokes or stories, repeated propositioning.
- Non-Verbal: Staring, derogatory or suggestive gestures, winking, throwing kisses, shunning, and ostracizing.
- Visual: offensive pictures, photos, cartoons, posters, calendars, magazines or objects.
- Physical: unwelcome touching, hugging, kissing, patting, stroking, standing too close.
- Written: unwelcome personal letters, notes or emails.

### **Harassing Behavior**

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- Unwelcome verbal, visual, or physical conduct of a sexual nature that is severe or pervasive and affects working conditions or creates a hostile work environment.



## **Sexual Harassment**

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### **'conduct'**

- Conduct is NOT sexual harassment if it is welcome. For this reason, it is important to communicate (either verbally or in writing) to the harasser that the conduct makes you uncomfortable and you want it to stop.

### **'of a sexual nature'**

- **Nonverbal:** Looking up and down a person's body; derogatory gestures or facial expressions of a sexual nature; following a person
- **Visual:** Posters, drawings, pictures, screensavers, emails or text of a sexual nature

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- **Verbal/Written:** Comments about clothing, personal behavior, or a person's body; sexual or sex-based jokes; requesting sexual favors or repeatedly asking a person out; sexual innuendoes; telling rumors about a person's personal or sexual life; threatening a person, sending emails or text messages of a sexual nature

### **'of a sexual nature'**

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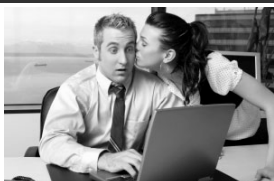
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**Physical:** Assault; impeding or blocking movement;  
inappropriate touching of a person or a person's clothing;  
kissing, hugging, patting, stroking

**'of a sexual nature'**

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**Question and Answer Time**

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**Harassment in  
the Workplace**  
**Module 4**

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- Know the different types of harassment.
- Understand whose job it is to **STOP** harassment.
- Understand what is expected when harassment occurs
- **Know HOW to deal with harassment when it happens.**
- Realize the importance of the policies and the law.
- Cause self-examination of attitudes, beliefs, and actions toward those who are different.

## **AGENDA**

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- Unwelcome-ness: What Does it Mean?
- Intent vs Impact
- “Reasonable Woman” Standard
- Sex or Power
- Other Confusing Situations



## **Welcome vs Unwelcome?**

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- The conduct of the harasser must be either severe or pervasive to be classified as sexual harassment.
- Although a single unwanted request for a date or one sexually suggestive comment might offend you and/or be inappropriate, it may not be sexual harassment. However, a number of relatively minor separate incidents may add up to sexual harassment if the incidents affect your work environment.

## **“Severe or Pervasive”**

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- Unwanted jokes, gestures, offensive words on clothing, and unwelcome comments and witty responses.
- Touching and any other bodily contact such as scratching or patting a coworker's back, grabbing an employee around the waist, or interfering with an employee's ability to move.
- Repeated requests for dates that are turned down or unwanted flirting. Transmitting or posting emails, texts, or pictures of a sexual or other harassment-related nature.
- Displaying sexually suggestive objects, pictures, or posters.
- Playing sexually suggestive music.

### **Examples of Sexual Harassment**

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- Non-sexual conduct may also be sexual harassment if you are harassed because you are female, rather than male, or because you are male, rather than female.
- For example, it may be sexual harassment if you are a woman working as a carpenter on an all-male job, and you are the only one whose tools are frequently hidden by your male co-workers.

### **Of a Non-Sexual Nature**

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- How many times did the incidents occur?
- How long has the harassment been going on?
- How many others have been sexually harassed?
- Who were witnesses to the harassment?

### **Questions to ask yourself**

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- Telling the Harasser to STOP
- Reporting the Behavior
- Documenting the situation
- Following Complaint Procedures



## **What to do if You Experience Sexual Harassment**

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**S**ource  
**T**arget  
**O**bserver  
**P**erson in authority

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**S**ource

**T** The source of the disrespectful behavior has the responsibility to stop behaving in such a manner.

**O** What about US. Are we part of the problem? Have we added to the disrespectful behavior?

**P**

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**S** The *target* must help confront the Harassment/harasser!

**T** **Target**

**O** If we are offended by other's actions or words, we need to let them know and ask them to stop.

**P**

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**S** Those who *observe* disrespectful or harassing behavior have a responsibility to stop it when it occurs; and one who *notifies* such is NEVER an innocent bystander!

**T**

**O** **Observer**

**P** It is simply the right thing to do.

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**S** Every person in authority has a duty to keep the workplace free from offensive and harassing behavior.

**T**

**O** Each person in authority is crucial to creating a respectful workplace.

**P** **Person in authority**

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**S**ource  
**T**arget  
**O**bserver  
**P**erson in authority

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**Question and Answer Time**

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**Harassment in  
the Workplace**  
Module 5

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- Know the different types of harassment.
- Understand whose job it is to **STOP** harassment.
- Understand what is expected when harassment occurs
- Know HOW to deal with harassment when it happens.
- **Realize the importance of the policies and the law.**
- Cause self-examination of attitudes, beliefs, and actions toward those who are different.

## **AGENDA**

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- Back pay
- Hiring
- Promotion
- Reinstatement
- Front pay
- Reasonable accommodation or ...

## **Remedies Available in Sexual Harassment Cases**

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- Other compensatory actions that will make an individual "whole" (in the condition he or she would have been but for the discrimination).
- Remedies also may include payment of:
  - attorneys' fees,
  - expert witness fees, and
  - court costs.

## **Remedies Available in Sexual Harassment Cases**

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Many of our jobs are already stressful without the added stress of harassment.

We spend a significant amount of time in OUR workplace.

## **Our Work Place should be a Respectful Place**

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- No one wants to work in an environment where he or she feels harassed and uncomfortable.
- Respectful behavior facilitates more productive employees.
- Disrespectful, harassing behavior can cost the perpetrator their job.

## **Why Respectful Behavior?**

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- Studies found 50% of sexual harassment cases co-workers or peers were the alleged harassers.
- Only 26 % involved the immediate supervisor.
- The 1991 amendment to Title VII of the Civil Rights Act of 1964 allows victims to recover punitive damages.
- Harassment lawsuits usually have personal legal & financial consequences for the harasser.

## **Why Respectful Behavior?**

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- Provide education and information about harassment on a regular basis.
- Develop an anti-harassment policy with employees, managers, and union representatives.
- Communicate the policy to all employees
- Make sure that all managers and supervisors understand their responsibility to provide a harassment-free work environment.
- Ensure that all employees understand the policy and procedures for dealing with harassment

### **Ways to Prevent Harassment**

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- Promptly investigate and deal with all complaints of harassment.
- Appropriately discipline employees who harass others.
- Provide protection and support for the employees who feel they are being harassed.
- Take action to eliminate discriminatory jokes, posters, graffiti, e-mails and photos.
- Monitor and revise the policy and education/information programs on a regular basis.

### **Ways to Prevent Harassment**

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AB 2053 requires employers that are subject to the mandatory sexual harassment prevention training requirement for supervisors to include a component on the prevention of "abusive conduct" beginning January 1, 2015.

- Abusive conduct is specifically defined under the new legislation as "conduct of an employer or employee in the workplace, with malice, that a reasonable person would find hostile, offensive, and unrelated to an employer's legitimate business interests."

### **Prevention of Abusive Conduct - CA**

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- Abusive conduct, as defined, may include:
  - Repeated infliction of verbal abuse, such as the use of derogatory remarks, insults and epithets;
  - Verbal or physical conduct that a reasonable person would find threatening, intimidating or humiliating; or
  - The gratuitous sabotage or undermining of a person's work performance.

The new law states that a single act does not constitute abusive conduct, unless especially severe and egregious

## **Prevention of Abusive Conduct - CA**

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- The conduct must be unwelcome to the target of the harassment. "Unwelcome" means that the employee did not solicit or incite the conduct and regarded it as undesirable.
- The harasser can be the victim's supervisor, an agent of the employer, a supervisor in another area, a co-worker, or a non-employee
- Harassment can be verbal, physical, or pictorial.
- The harasser as well as the target can be a man or women.
- Claimant does not have to be the person at whom the offense conduct is directed but can be anyone affected by conduct.

## **How to Recognize Harassment**

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- Employees are expected to maintain a productive environment that is free from harassing or disruptive activity.
- No form of harassment will be tolerated included harassment for the following reasons: race, color, national origin, religion, sex, sexual orientation, disability or age.
- Any employee who believes that he/she is victim of unwelcome harassment has the responsibility to report or file a complaint about the situation as soon as possible.
- The report or complaint should be made to the employee's supervisor; or Senior Management if the complaint involves the supervisor or manager.

## **An Employee's Responsibilities**

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## REVIEW

### Question and Answer Time

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## Harassment in the Workplace

### Module 6

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- Know the different types of harassment.
- Understand whose job it is to **STOP** harassment.
- Understand what is expected when harassment occurs
- Know HOW to deal with harassment when it happens.
- Realize the importance of the policies and the law.
- Cause self-examination of attitudes, beliefs, and actions toward those who are different.

### AGENDA

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- Employees should:
  - Avoid behavior that may be misconstrued as possible sexual harassment.
  - Avoid sexual jokes, comments, and e-mails.
  - Respect a person's indication that your conduct or attention is not welcome.
  - Not invade another individual's personal space.
  - Not touch anyone without their permission.
  - Clearly inform those engaging inappropriate behavior that they find it objectionable.
  - Seek assistance promptly.

### **How to help prevent harassment**

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- A victim of harassment should clearly communicate to the harasser that the conduct is unwelcome.
- Evidence that the victim participated in the conduct that she or he later challenged, would generally defeat a claim, since participation communicates welcome-ness.
  - Participation does not necessarily mean the conduct is welcome.
  - Acquiescence or submission to sexual demands does not necessarily mean that the conduct was welcome.
- The person affected by the conduct should report it or file a complaint - if the conduct continues after the perpetrator becomes aware it is unwelcome.

### **What an individual that is being harassed should do**

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- Monitor workplace behavior, enforce respect.
- Treat all complaints seriously and confidentially.
- Post/disseminate EEO Policy.
- Respond to allegations immediately; investigate, as appropriate.
  - Be sensitive but impartial.
  - Interview parties and relevant witnesses.
  - Ask open ended questions.
  - Collect relevant documentation/evidence.
- Take appropriate corrective action, follow-up
- Ensure no retaliation.
- Document your actions.

### **A Supervisors Responsibilities**

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- All complaints will be investigated promptly
- Employees are required to cooperate in any investigation.
- A timely resolution of each complaint should be reached and communicated to the parties involved.
- Any Employee, supervisor, or manager who is found to have violated the harassment policy will be subjected to appropriate disciplinary action.
- Any form of harassment for bringing bona fide complaints - or providing information on harassment is **prohibited**.

## **Investigating Harassment**

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- It is the responsibility of every employee to promptly report harassing conduct to anyone in their supervisory chain; or to their human resources representative.

## **Your Responsibility**

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- There are a number of steps that you can take to reduce the risk of sexual harassment occurring in your workplace.
- Adopt a clear sexual harassment policy that:
  - Defines sexual harassment
  - States sexual harassment will not be tolerated
  - A clear procedure for filing sexual harassment complaints
  - Any Complaint will be fully investigated
  - Retaliation against anyone who complains about sexual harassment will not be tolerated

## **Prevention Strategies**

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**Sexual harassment policies:** Employees should be aware of the company's anti-sexual harassment stance.

Such actions will not be tolerated, nor will retaliation against a person who has complained about such harassment.

## Harassment Prevention

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### Organize lessons

- Hold mandatory annual seminars to review sexual harassment policies.
- Training supervisors is especially important. In many instances, these individuals will be the first line of sexual harassment protection. They should be skilled in how to handle cases of alleged harassment



## Harassment Prevention

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- Keep an eye on the workplace. Make sure nothing that can be interpreted as sexual harassment has been seen or heard.
- Create an anti-sexual harassment environment, handle allegations of sexual harassment with tact and respect. Employers can actually be prosecuted for failing to investigate harassment and taking appropriate action.



## Harassment Prevention

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- **Act confidently** Weak individuals are often targeted as victims. By acting and speaking in strong ways, individuals take themselves out of many situations where harassment may occur.
- Let others know sexual harassment will not be tolerated. If a person makes a lewd comment, ask them not to. Keep your position on the matter clear.
- **Dress and act modestly** It is important to understand that some people put themselves, unknowingly, in questionable situations. They may be interpreted as welcoming such advances by dressing or acting inappropriately.

## **In Private Lives**

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- It is never the victim's fault if sexual harassment occurs, but it is important to distance yourself as much as possible from situations where such actions can take place.
- **Keep appropriate company** Do not maintain relationships with individuals around whom you are uncomfortable. Distance yourself from individuals who seem to be preoccupied with thoughts, words and actions of a sexual nature.
- Find friends that can be trusted and appreciated. Have things in common, such as senses of humor and jobs.

## **In Private Lives**

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- Train Employees
- Train Supervisors and Managers
- Monitor Your Workplace
- Take all Complaints Seriously



## **Sexual Harassment Training Requirements**

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## There Is No Excuse For Harassment




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- What Speech Does "Hostile Work Environment" Harassment Law Restrict? <http://www2.law.ucla.edu/volokh/harass/breadth.htm>
- Sexual Harassment EEOC [http://www.eeoc.gov/laws/types/sexual\\_harassment.cfm](http://www.eeoc.gov/laws/types/sexual_harassment.cfm)
- Your Rights Against Workplace Discrimination & Harassment <http://www.nolo.com/legal-encyclopedia/workplace-rights>
- DHHS Workplace Violence <http://www.ncdhhs.gov/humanresources/harassment/>
- U.S. Department of Labor Policy Statement on Harassing Conduct in the Workplace: <http://www.dol.gov/oasam/programs/crc/crc-internal/2015-Policy-Statement-on-Harassing-Conduct-in-the-Workplace.pdf>
- Connecticut State Law: <http://www.ct.gov/chro/cwp/view.asp?a=2527&q=333112>
- California State Law: [http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201320140AB2053](http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201320140AB2053)

## References

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## Question and Answer Time

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