

Hello and welcome to preventing harassment and bullying in the workplace. This is session A.

Session B is for managers and supervisors and that will follow.

This class is part of your organization's mandatory harassment prevention training class. Thank you for your participation. Plan on spending the next hour watching this video and taking the test.

And we're ready to get started with the training.

This course is brought to you by capreventharassment.com and it is dedicated to a professional respectful workplace. There are five objectives to this course. The first, build skills to resolve employee issues.

Employees invariably have issues that come up and we want to make sure that you know about your resources and tools available to you.

Objective number two, increase employee morale and productivity.

Employee morale affects everything that we do. Not just productivity but also commitment, quality, customer service. Those are all very important aspects of your employment at this organization. We want to make sure that your workplace is inclusive and respectful.

Objective number three, learn about your policies.

We want you to know about our policies and ensure that we are consistent in the application of those policies because the minute we're inconsistent someone could say that we are unlawful or discriminatory, and we certainly don't want that to occur. Having a policy manual ensures that we are consistent across the board.

Objective number four, increased professionalism as an organization.

If we're professional and respectful we shouldn't have any issues, so that will be our goal.

Objective number five, comply with the law.

There are many laws you should know about both on the federal level and the state level that give you rights and responsibilities and we'll go into that in great detail. While this mandatory training is required by law. There's certainly a lot of other good reasons to make sure everyone is on the same page.

With those five objectives, the end result will be to help create a healthy and respectful workplace .

Let's go over what to expect in the training class.

Process for this course includes a video and a certification test. For the video, we'll watch this video and take notes.

At two separate times will provide you with codes. And those codes will be evidence that you've actually watch the whole video. And then we'll go to the certification test. You need to return to the website, take the test which will include multiple choice questions and pass the test at 80 percent rate. Also, we'll provide you with ongoing support so you can always access through the website. Managers, supervisors and team leaders will follow the same process for session B. You'll watch another video and take a separate certification test. At any time, please email us with any questions that you might have.

There's been a heightened awareness of discrimination in society

And as we all well know, harassment is in the news.

MeToo, TimesUP, Black Lives Matter, and recent USSC decisions prohibiting discrimination based on sexual orientation and gender identity have all heightened awareness. Employers need to take these issues seriously and establish programs to promote diversity, equity, and inclusion. Individuals need to adapt their behavior because being involved in an accusation of harassment can impact your reputation and even their career, so we need be aware of our conduct and behave professionally and respectfully.

Harassment is not new to employees.

Day one, employees receive a brochure put out by the Department of Fair Employment and Housing having to do with harassment in the workplace. Employers are required to post posters in a central location. We also have a policy manual which details all of our policies and practices. We've done trainings in the past, but by following our policies, we demonstrate that this topic is very important. Well, most of this training is regarding sexual harassment, we'll also talk about other forms of harassment. We'll touch on the topic of discrimination and the need to keep everything fair and consistent. Also the topic of retaliation and abusive conduct or bullying in the workplace will be covered in this short training.

So let's get into the training. The first topic is going to be legal issues, which will talk about the rights and responsibilities that you have. Secondly, we'll talk about behavioral issues, how you should communicate and interact with your coworkers. And thirdly, we'll talk about some practical issues. What you should do or say if you've observed or have been victimized by harassment in the workplace. Our goal with this training is to educate you about the rights and responsibilities you have in the workplace, but also to give you some ground rules for a professional and respectful interactions at all times and certainly to give you resources in case there is an issue that comes up.

Thank you for listening and taking this topic seriously. Now, let's get into the first section, which is Legal Issues.

In this section, we'll talk about legal issues and the many laws that provide you with rights and responsibilities. We'll discuss the legal issues having to do with discrimination, harassment, retaliation and abusive conduct or otherwise known as bullying in the workplace.

There are both federal and state laws. Federal their US Supreme Court cases and US EEOC guidance. State laws, we have the California Fair Employment and Housing Act and various assembly bills and Senate bills that provide oversight.

Let's talk about the recommendations from the US Supreme Court and the EEOC, to do this training.

In 1998, US Supreme Court had two landmark decisions that strongly encourage employers to conduct harassment prevention training.

Those cases were *Burlington Industries vs. Ellerth* and *Faragher vs. the City of Boca Raton*. And in both of those cases, the employer was able to demonstrate what's called the affirmative defense, because they took reasonable care to prevent and respond to the harassment that occurred. In both of those cases, the employees unreasonably failed to take advantage of any preventive or corrective opportunities available to them. Those cases demonstrate that employers should take proactive steps to avoid liability. In 1998, the EEOC provided a three-pronged approach as guidance for employers for preventing harassment. First, employers should adopt specific policies about sexual harassment including a definition of harassment with real life examples. Language about non-retaliation for those who come forward with complaints, and also a statement that sexual harassment will lead to disciplinary action up to and including termination.

For complete handling, complaints of sexual harassment must be promptly, vigorously and honestly investigated and valid complaints must be remedied. Police must be offered multiple avenues of complaint.

And number three, the EEOC suggests that employers should consider training all employees from the CEO to frontline employees to ensure that they are sensitive to the issues of sexual harassment. The EEOC has strongly encouraged employers to do the training. But California has taken it a step further requiring two hours of training every two years for anyone in a management supervisory or lead position. This law is called AB 1825. New supervisors who are promoted must be trained within 6 months and participants must have the opportunity to ask questions which were providing for you through the website. Your questions could be submitted to us through capreventharassment.com

In addition to discussing sexual harassment AB 2053 requires us to discuss the topic of abusive conduct. An abusive conduct is defined as, "Conduct of an employer or employee in the workplace that's done with malice, that a reasonable person would find to be hostile, offensive or unrelated to an employer's legitimate business interests." The abusive conduct could be from supervisor to their employees or vice versa. It could be peer-to-peer or from third parties such as contractors, consultants, vendors, suppliers that sort of thing.

Abusive conduct is not a one-time only event unless it's particularly egregious, but it could be the intensity or the frequency of the abusive conduct that's called into question. It's not necessarily a legal issue, but certainly disciplinary action could occur.

Another California law passed in 2017 pertains specifically to gender identity and gender expression. It's called SB 396. This law requires employers to include this topic in training and also to display a specific poster entitled Transgender Rights in the Workplace. The intention of the law is to honor an employee's gender identity and gender expression. So employers are required to allow employees to use the facilities that correspond to their own gender identity and requires employers to enforce dress codes in a non-discriminatory manner. Employers may also not ask questions in an interview designed to detect a person's sexual orientation or gender identity.

The newest law relating to harassment prevention training is SB 1343. This California law was passed in 2019. It expands the training requirement to most employers. So now, employers with 5 or more employees need to train their staff for one hour by January 2021. Temporary or seasonal employees must be trained within 30 calendar days or a hundred hours if the employee will work for less than six months.

Here's a list of the federal protections that are afforded to employees. So basically, you cannot be discriminated against or harassed on the basis of race, sex, color, religion, national origin, ethnicity or ancestry. Additional laws provide additional protections such as age 40 and above, pregnancy and related medical conditions, military status, disability, immigration status and genetic information. We'll go through each of these laws in successive slides.

The major law dealing with discrimination and harassment on the federal level is title seven of the Civil Rights Act of 1964. This law prohibits discrimination and harassment based on characteristics such as race, sex, color, religion, national origin, ethnicity and ancestry. Title seven prohibits discrimination in hiring and promotional opportunities within the organization. It also proactively requires religious accommodation which might mean days off or time off to pray, those sorts of things.

Another law pertaining to discrimination in harassment is the Age Discrimination in Employment Act. It protects employees over the age of 40. It was the ages 40 to 70, but then the upper limit was removed. So like title seven, it applies in hiring and promotional opportunities within the organization. So in terms of hiring, no questions can be asked about high school graduation dates or age, but it's okay to ask about college graduation dates. But also like title seven it applies to harassment as well. So no jokes or comments or teasing about age.

Another law is the Pregnancy Discrimination Act which protects people who are pregnant or have related medical conditions such as miscarriages, infertility, or an inability to become pregnant. The only exception to that would be whether the qualification was a bona fide occupational qualification, which is a very limited exception.

Another protected category is military status. Under the Uniformed Services Employment and Reemployment Rights Act, an employer cannot discriminate based on military status. Employers must hold the job open while the employee is out on active duty and reinstate them to the same or a similar position upon their return from leave.

Another law which protects Americans is the Americans with Disabilities Act. Employees that are covered have a physical or mental impairment that affects a major life function such as seeing, walking, hearing, breathing. Employers are required to provide reasonable accommodation. But this accommodation can only be determined through an interactive process, which is handled by an individual such as HR or in your Benefits Department. This law also restricts medical inquiries to designated personnel. So make sure if you have access to any information that you keep it confidential, and be respectful of employees' rights to confidentiality regarding their medical condition.

And the Immigration Reform and Control Act has a anti-discrimination provision. It's not an EEO law per se but it does have a provision which prohibits discrimination based on citizenship status. So yes, we need to verify an employee's eligibility and authorization to work with an I-9 form upon higher. But while they're an employee, we cannot treat them differently because of their citizenship status.

And in 2008, the Genetic Information Non-discrimination Act was passed making it unlawful to discriminate against an employee on the basis of genetic information. So those are the federal protections afforded to employees. On the California landscape it's much different. We're very progressive state were very pro employee and pro-labor and we've always been very multicultural. We have a full-time legislature that promulgates laws to protect employees. Some states have similar protections but no state has more protections than the state of California. Also, it should be noted that our state is very litigious and we have a very active plaintiffs' bar.

California Department of Fair Employment housing has 17 protected categories. They include race, color, religion, national origin, sex gender, ancestry, gender identity/gender expression, sexual orientation, marital status, medical condition, military or veteran status, disability, age that's 40 or older, genetic information, political affiliations or activities, status as a victim of domestic violence, assault or stalking and the final request for leave Family Care, pregnancy or employees own serious medical condition.

More information on your rights under all of these laws can be found on the employment posters hanging in the workplace or on the DFEH website and a link to that can be found on the capreventharassment.com website.

To summarize the information in this section, recognize that there are many laws both federal and state that provide you with rights in the workplace. But you also have responsibilities. Your responsibilities are obviously to do your job, but also to behave in a way that is conducive to the standards of conduct that are listed in your employee handbook or Personnel Policy Manual and be sure that you're not infringing on the rights of others in the workplace. As we mentioned in the beginning you'll need this code for the middle of the session. It is C-R-F-X-V. You'll need that code to provide evidence that you're watching the entire video.

That summarizes the legal issues section. Now, let's move into the second section which is behavioral issues.

Section two, behavioral issues. Follow the standards of conduct and be respectful and professional.

From a behavioral standpoint, there are several issues that can get employees into trouble. This usually happens between interactions and communications with your coworkers. The first issue is profanity, obviously profanity entails anger and emotion and there's no place for it in the workplace. Also jokes, jokes are fun. However, sometimes people are the butt of jokes or jokes are made at people's expense. And so those are jokes that are going to cause you issue. Yelling or raising your voice indicates a lack of control over your emotions. So when there's the intensity and frequency of raising your voice, that could be problematic. Also name-calling, you should not engage in names that are going to be offensive to other people and this would include calling people names like honey, dear, sweetie, babe those sorts of things. Be careful about your electronic communications via email, Facebook, Instagram, Snapchat, social media and even online games.

Recognize that behavior that may be socially acceptable such as flirting and joking is probably not appropriate in a professional setting. So be aware of your behavior and act accordingly. Sometimes some of our communications and behavior has a bit of bias in it. There's prejudice or preconceptions or assumptions that we make about people, and there's also the element of unconscious bias

microaggressions, that are comments that are made that don't intend to offend or humiliate or embarrass people, but that's the end result. So we need to be cautious of those sorts of comments and behaviors.

So let's start with the impact on--of harassment. First, with the impact on individuals. Physical and emotional stress and health issues are one element of harassment. Second, impact to self-confidence and pride in work, and the third but not final is job career reputation.

Another impact is on the team. There's poor team cohesion, lower productivity, loss of morale, stress and interpersonal conflict. The third is impact on the organization. Cost of investigations and settlements liability, high turnover and loss of valuable employees, negative publicity and loss of contracts, grants, public trust and confidence.

For all those reasons we want to ensure that people's behavior is appropriate respectful and professional.

We're now going to talk specifically about sexual harassment, but first just a couple of general comments. Remember that harassment can be based on other elements not just sex. It could be based on race, color, religion or any of the other protected categories that we talked about. It is subject to interpretation because we are different people with different backgrounds, different genders, different ages. We all have different senses of humor and different tolerance levels. So what offends or humiliates one person might not offend another person. However, it is subject to the standard of the reasonable person, would a reasonable person be offended given the circumstances. And certainly if anyone tells you that they're offended you need to stop that behavior at once.

There are four types of sexual harassment. The first is sexual favors or quid pro quo. That would be a manager or supervisor abusing their power by saying something like, "If you do this for me, I'll do this for you." or "If you don't do this for me, I won't do this for you." The other forms are physical, verbal or visual. The California Administrative Code of the Fair Employment and Housing Commission defines sexual harassment as, "Unwanted sexual advances, offering employment benefits in exchange for sexual favors or making or threatening reprisals after receiving a negative response to sexual advances."

Here are some scenarios that are commonplace examples of harassment in the workplace.

So scenario number one. "Joking at work." Two employees are observed talking in the break room. Both are laughing and are engaged in the conversation.

This is probably fine as long as the employees are not joking about another person or making comments or jokes at the person's expense that demean or embarrass or offend another employee.

Scenario number two. "Complaints." An employee has complained about unfair treatment. So the supervisor is unsure how to treat them and ends up avoiding the employee.

An employee has the right to complain and shouldn't be treated any differently as a result of that complaint. So, if an employee makes a complaint and they're being ignored or avoided or ostracized that's changing the terms or conditions of their employment and that could be considered as retaliatory.

Scenario number three. "Electronic Communications." Your friends on Facebook with several other employees and you notice inappropriate postings about a co-worker.

Your electronic communications could be subject to your employer's electronic communications or social media policy. In most cases disclosing confidential information or communications that are disparaging or disloyal to the employer are restricted. Yes. There is the element of free speech. However, many-- in many cases, employees' behavior online has been subjected to disciplinary action or termination.

Scenario number four. "Hugging." An employee just got back from a long vacation is happy to see his or her coworkers.

Your policy outlines behavior that could be physical harassment and usually that is pinching, padding, kissing, hugging or putting your arm around someone. With regard to hugging, it can create a hostile workplace when it is unwelcome and pervasive. The rule of thumb is that you can probably hug your close friends, but not all the time and you can probably hug someone if you ask and they say it's okay, but you shouldn't hug someone who you supervise and you shouldn't hug a co-worker with whom you're romantically involved.

Scenario number five. "Body language." An employer stares, gives mean looks or wags fingers and becomes visually angry with coworkers.

Here's an example of visual harassment. Could be gestures, facial expressions, pointing your finger and those types of displays which are aggressive and it could create a hostile work environment. Even if nothing was stated, the type of behavior that we see in these photos could be problematic.

Scenario number six. "Friendships." Your co-workers or friends end up spending weekends and evenings socializing, several romantic relationships have resulted on the team.

The answer is that although we cannot control your off-duty conduct, employees should refrain from public displays of affection and realize that their conduct could be questioned should the behavior come into the workplace.

Scenario number seven. "Dating." An employee asked another employee out and she said, "No." He repeatedly asked her out for a date.

The answer is, it makes sense that you may want to date someone that you meet on the job. However, if you ask an employee out for a date and they say, "No." Do not repeatedly ask them out. That could be an example of harassment. Also, employees that do not report to each other can date, but not if there's a reporting relationship that could cause issues with conflict and preferential treatment in the

workplace. Also, employees in relationships should in general be cautious because the romance might end and what will result is conflict and bad feelings.

Scenario number eight. "Compliments." A co-worker tends to give you compliments on a regular basis saying things like, "Hey, you look great!" or "Have you been working out?"

The answer is it's often not what you say, but how you say it. And compliments may be misinterpreted due to the tone, content, frequency or intensity of the attention among other factors. If the person has said they're uncomfortable being complimented, certainly do not continue this sort of attention and remember that all workplace communication should be professional and respectful at all times.

Most of those examples were commonplace. We just wanted to give you a sense of the ground rules for engaging in communications and other interactions with your co-workers. The key is to ensure that we're always being respectful and professional. Remember, it isn't necessary that inappropriate comments be directed at an individual for them to make a viable complaint. If someone witnesses or otherwise becomes aware of an incident of inappropriate behavior, they can raise concerns. Everyone should be on their best behavior at work. This includes vendors, suppliers, customers and certainly employees themselves.

Now, let's move on to section three, the Practical Issues.

Section three. Practical issues, resources and next steps. So the employer responsibilities are: read the policy, review posters, uphold standards, remind others about policy or refer to appropriate persons.

We've talked about a lot of the rights that you have in the workplace, but you certainly do have responsibilities as well. Your employee handbook is a great place to look in case you have any questions about the behavioral standards. Also, the set of employment posters that are hanging in a common space are a very good resource for you as well. They include information of the agency that's responsible for that law as well as contact information. Your organization has a lot of policies that are important in your employment. There's an EEO policy and a policy regarding harassment and bullying in the workplace. There's also a complaint handling procedure and of course other policies such as standards of conduct, dress code, confidentiality and your social media or electronic communications policy. So read the policy manual and understand what's required of you.

When it comes to reporting harassment, speak up if you know or suspect a situation. Second, multiple avenues of complaint exist through human resources, your manager supervisor manager or executive or anyone really in a management position.

Remember, it's the employers responsibility to investigate any claim of harassment. Promptly, vigorously and honestly, but we need to know about it. So it's your responsibility to speak up if you know or suspect a situation that's going on. It's your choice who you want to go to with any complaint, concern or question. You could even submit the complaint anonymously. However, it's very difficult to investigate a claim if we don't know specifics.

Often times employees are hesitant to come forward with information regarding a complaint or situation, but you should know that your organizations policy includes a non-retaliation provision. Meaning, you can't be retaliated against for coming forward with that information. Employees do have

the right to complain and we want to be respectful of that. But certainly you should not fear retaliation for complaining or even being involved as a witness in an investigation. If that occurred, that would be an example of retaliation. A synonym for retaliation is revenge or payback and it typically involves three different elements. First of all, a protected activity such as making a complaint. Secondly, adverse employment action, some result of the complaint and then thirdly, a connection between the protected activity and the adverse action. Let's go into each of those steps.

Examples of a protected activity are complaining about unlawful discrimination or complaining about unlawful harassment. It could be a complaint about a safety violation or just exercising any other protected rights that you might have under various laws. In other words, you have the right to complain and bring your complaints or issues or concerns forward and we certainly encourage you to do that. If you ever suffered some sort of adverse action because of that complaint, that could be an example of retaliation and the action could be tangible or more subtle. Examples of tangible adverse employment actions are demotion, suspension, termination or taking away another term or condition of employment. An example of a subtle action could be just sort of ignoring or avoiding you or ostracizing you or shunning you. If any of those actions happen because of the protected activity, that's an example of retaliation. And basically the adverse action would be because of the protected activity. Timing is an issue if it's very closely connected with your initial complaint and if any retaliatory statements were made or other employees were treated more leniently. Those are all elements to support your claim of retaliation.

It's the employer's responsibility to listen to each and every complaint that comes up and we need to take those complaint seriously. We need to conduct an investigation by talking to all relevant witnesses and then we can make a determination from the evidence at hand. Employers then need to take remedial action that is appropriate given the circumstances.

Your organization has an investigation process in place, which requires employees to come forward as soon as possible with any issue about a possible legal issue. One thing to mention is that we cannot ensure a hundred percent confidentiality. However, we will only share information with people who have a demonstrated need to know. An employee should try to maintain the confidentiality of their information as well. These rules of engagement apply to employees but also to volunteers or unpaid interns, outside vendors or suppliers, and of course it applies to employees at work, but outside of work as well in some circumstances when you're interacting with your co-workers. And also remember that individuals can be held personally liable for sexual harassment.

So in summary, we want to make sure that you're aware of your conduct and how it impacts other people.

Understand the legal issues, rights and responsibilities.

Make sure that you separate your professional behavior from your social behavior.

And last but not least, seek advice from HR or your manager if you have a question comment or concern.

That concludes the video component of this one hour training class. The rest of the time will be composed of a final activity as well as the certification test, and that should take you to the full hour.

The final activity is to review the posters in your workplace. Or you can also find the posters linked on the capreventharassment.com website. There's a sexual harassment brochure as well as a poster put out by the DFEH that is entitled Discrimination and Harassment in the Workplace.

Now you're ready to go to the certification test. The code for the end of the session is C-G-F-R-X and you're going to want to write that down because that is one of the test questions. When you go to the capreventharassment.com website, click on the test for session A. Enter your name as you would want it to appear on your certificate as well as your email. The certification test consists of 10 multiple-choice questions, they're not that difficult. They are just meant to ensure that you have comprehended the material in this short video. As we mentioned you need the code from the middle of the session as well as the end of the session. And you have to answer at least 80% of the questions correctly. If you do so, a certificate will be generated and an email will be sent back to you and a copy will be maintained for your employer.

Variety of resources available. Department of Fair Employment and Housing, their website is www.dfeh.ca.gov and there's contact information on your company poster.

You can also contact us at capreventharassment.com or via email at capreventharassment@gmail.com. We will respond to your requests within two business days.

Thank you for participating! Managers, supervisors, team leaders also must take Session B video and test.

Session B follows basically the same process where you will watch a video, do a final activity and take the certification test. Thank you for your participation and we appreciate your attention to this very important topic. [END]