

ACWA JPIA

*Training for Water Utility Employees*

# **Sexual Harassment Prevention Training**



**Association of California Water Agencies  
Joint Powers Insurance Authority**

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# Sexual Harassment Prevention Training

Presented by Robert Greenfield, General Counsel

*Meets AB 1825, AB 1661, AB 2053, SB 1343 Training Requirements*



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## Civil Rights Department (CRD)

**Previously DFEH**

Department of Fair Employment and Housing renamed to Civil Rights Department

**Same Authority**

Enforces civil rights laws protecting employees from discrimination and harassment

**Streamlined Process**

Files complaints, investigates violations, resolves disputes through mediation

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## Harassment Claims Have Long-Term Life Of The Claim

- 1 Initial Filing**  
Claim begins with formal complaint
- 2 Investigation Phase**  
Evidence gathering, testimony, documentation
- 3 Legal Proceedings**  
Court appearances, depositions, motions
- 4 Resolution (2035)**  
Cases can remain active for over a decade



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## Prevalence of Sexual Harassment

**77%**

Women Harassed  
Over 3/4 of women experience verbal harassment

**34%**

Physical Harassment  
Unwanted touching in workplace settings

**25%**

Online Harassment  
Digital forms of sexual harassment

**38%**

Report Rate  
Percentage who formally report incidents

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## How Big are the Verdicts?

On June 2, 2022, a jury in Los Angeles Superior Court was presented with a case involving two male employees who alleged they were sexually harassed and subsequently terminated in retaliation for making a complaint.

*Alfredo Martinez and Justin Page v Southern California Edison*

Los Angeles Superior Court BC670461

**\$464 million**

June 17, 2024, Los Angeles Superior Court Jane Doe. Vs. David Alkiviades for severe sexual harassment and assault.

**\$900 million**



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## Prevention Benefits Everyone



**Positive Environment**

Better workplace culture and morale



**Maximum Productivity**

Focused employees, reduced turnover



**Employer Reputation**

Attracts and retains talent



**Legal Compliance**

Avoids costly litigation and penalties

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## Which are Protected Classes?

Race		Cannabis Use	
Medical Condition		Gender expression	
Hair Color		Pregnancy	
Gender identity		Sexual orientation	
Marital Status		Obesity	
Age		Genetic info	
Smoker		Religion	
National Origin		Homelessness	
Gender		Drivers License	
Military Status		Disability	

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## Understanding Harassment Definition



### Persistent Disturbance

Continual unwanted attention or contact



### Repeated Incursions

Multiple unwelcome interactions over time



### Unwanted Badgering

Persistence despite clear signals to stop



### Verbal Torment

Words that disturb, upset or intimidate



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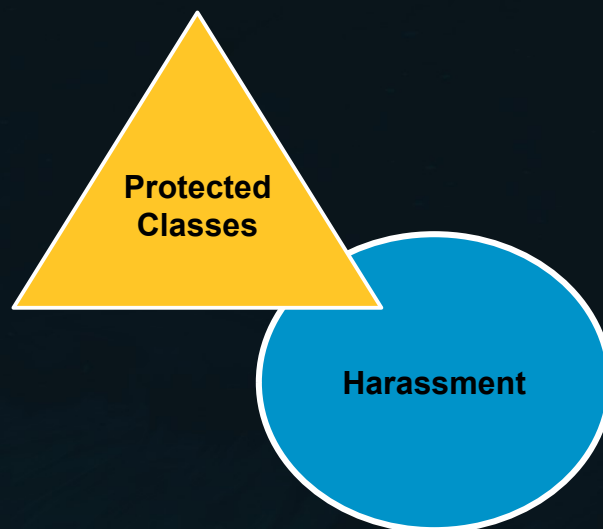


## Is There Legal Harassment?



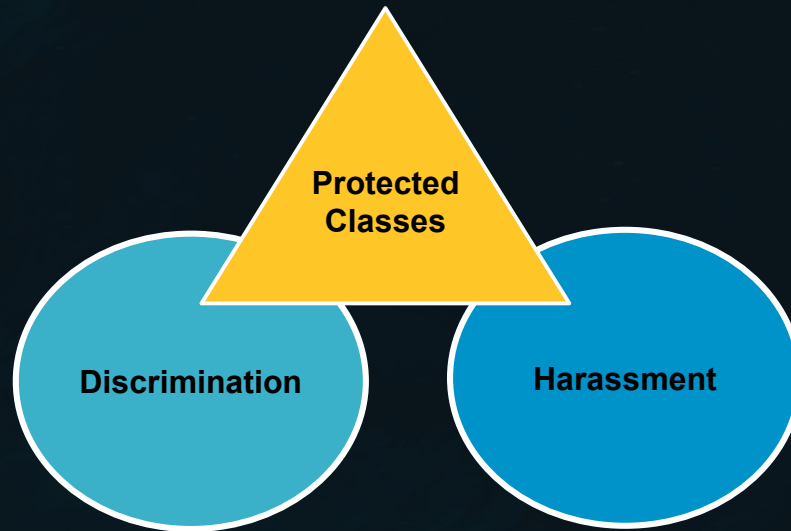
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## Unlawful Harassment



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## Discrimination & Harassment




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## Discrimination vs. Harassment



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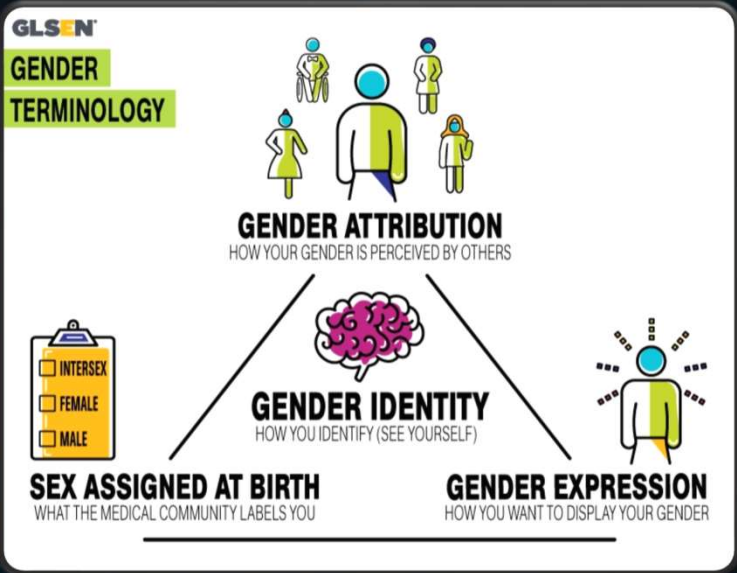
## Sexual Harassment Definition

<b>Unwelcome</b> Conduct recipient does not consent to or invite	<b>Sexual Advances</b> Verbal or physical expressions of sexual interest
<b>Sexual Conduct</b> Behavior related to sex, sexuality, gender	<b>Multiple Forms</b> Verbal, non-verbal, physical actions

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### What is the definition?

**GLSEN**  
**GENDER TERMINOLOGY**



**GENDER ATTRIBUTION**  
 HOW YOUR GENDER IS PERCEIVED BY OTHERS

**GENDER IDENTITY**  
 HOW YOU IDENTIFY (SEE YOURSELF)

**SEX ASSIGNED AT BIRTH**  
 WHAT THE MEDICAL COMMUNITY LABELS YOU

**GENDER EXPRESSION**  
 HOW YOU WANT TO DISPLAY YOUR GENDER

**INTERSEX**  
☐ **FEMALE**  
☐ **MALE**

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## Scenario

Could this be sexual harassment?

- ☒ **YES**  
☐ **NO**  
☐ **IT DEPENDS**

Chloe, a customer service rep at a member district, is approached by her supervisor, Alton, who asks whether she was “born a man” because he had heard a rumor that “there was a transvestite in the department.” Chloe discloses to Alton that she is transgender and asks him to keep this information confidential.

Whenever Alton is frustrated with Chloe, he *misgenders her* by using, with emphasis, “he/him” pronouns, sometimes in front of Chloe’s coworkers. <sup>5</sup>

Later, Alton instructs Chloe to *wear pants to work* because a dress would be “inappropriate,” despite other employees being permitted to wear dresses and skirts. Alton also asks *detailed questions* about Chloe’s anatomy and sexual relationships.



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## How much “fluff” is in your budget?

2022 Gallup found unhappy workers cost the US approximately **\$1.9 Trillion** in lost productivity each year

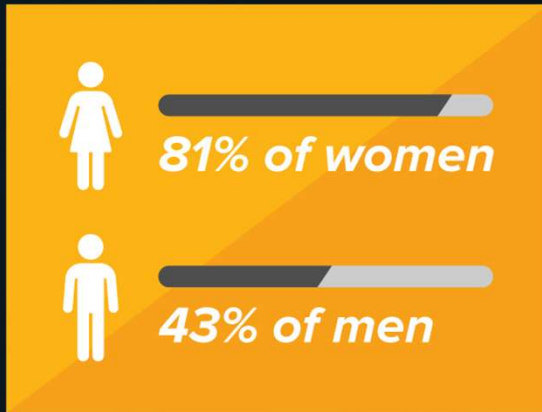
Cost of Harassment to **ACWA JPIA:**

- 332 claimants
- **\$25.5 million since 1980**



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## Harassment Impact Statistics



**81%**

**Women Affected**

Experienced harassment/assault in lifetime

**43%**

**Men Affected**

Experienced harassment/assault in lifetime

**75%**

**Turnover Cost**

Percentage of annual salary to replace employee

**\$100K**

**Annual Cost**

Per target of harassment

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## Personal Liability Warning

**U - Unwelcome**

Not invited, wanted, or consensual

**S - Sexual in nature**

Related to sex, gender, or sexuality

**C - Creates hostile environment**

Interferes with work performance

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# Types of Sexual Harassment

## Quid Pro Quo



*"This for that" - sexual favors for benefits*

- Submission is employment term
- Employment decisions based on compliance
- Employer always liable

## Hostile Environment



*Unwelcome conduct creates abusive workplace*

- Interferes with work performance
- Creates intimidating atmosphere
- Must be severe or pervasive
- Employer liable if knew/should have known

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## Quid Pro Quo Harassment

### Definition

Latin for "this for that" - sexual favors demanded in exchange for benefits

### Examples

Promotion in exchange for dates, threats of termination for refusing advances

### Legal Standard

Single incident can be sufficient for liability

### Liability

Employer strictly liable for supervisor's conduct

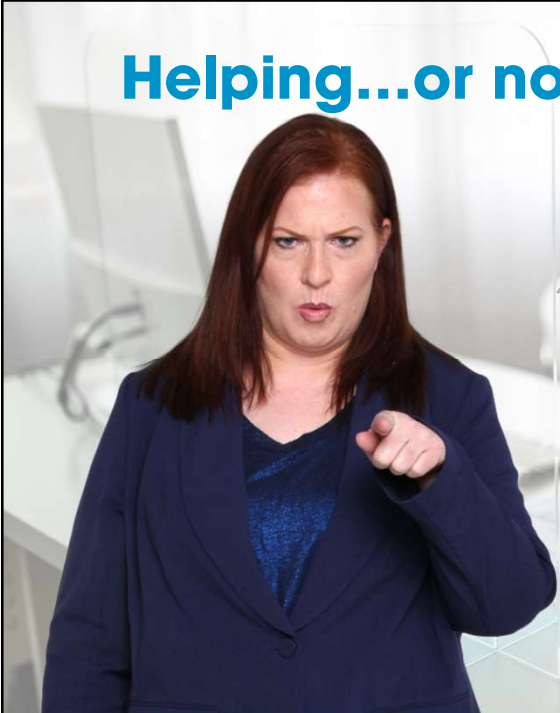


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## Why Doesn't it Get Reported?

- Blame themselves
- Feel shame
- Don't want to make matters worse
- Motives are questioned
- Names are dragged through the mud
- Fear professional repercussions
- Fear past will be used to attack their credibility
- Afraid harasser might be treated severely

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**Helping...or not?**

“Ever since it was reported that the guys were teasing you it seems like your work has been really suffering. You haven't been a good team player. I'm thinking for now we'll have you do a less taxing job with less responsibilities, so you aren't overwhelmed. I've decided to move you to our other agency site so you don't interact with them anymore. I know it's not as nice there as our main office, but at least you might get some work done there.”

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## Recognizing Retaliation



### Hidden Punishment

Reassignment disguised as "helping"



### Changing Job Duties

Removing responsibilities, less desirable tasks



### Involuntary Transfer

Relocation to inferior work location



### Social Isolation

Excluded from team activities, labeled "not a team player"



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## Ways People Harass



Physical



Verbal



Non-verbal

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## Unwelcome Physical Contact

-  **Unwanted Touching**  
Any physical contact without consent
-  **Personal Space Invasion**  
Standing too close, blocking movement
-  **Seemingly Innocent Contact**  
Shoulder rubs, arm touches, hugs
-  **Physical Intimidation**  
Blocking paths, cornering in spaces

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## Intent vs. Impact



**Intent Not Relevant**

- “Just Joking” is not a defense
- Being unaware doesn’t excuse behavior
- Cultural differences not exemptions
- Previous tolerance not implied consent

**Impact Is Decisive**

- How recipient experienced behavior
- Reasonable person standard
- Effect on work environment
- Severity and pervasiveness considered

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## Scenario

Director Blue shows up at conference. When signing in he says to Joan, "The only reason I come to these things after 20 years is to see all the pretty girls and you are the prettiest yet."

After the morning session, Director Blue says to Margaret, "Since my wife passed away, I've been so lonely. I look forward to these conferences to get out of the house. Would you like to have lunch with me?"

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## Continued...

As Director Blue is leaving the afternoon session, he says to Sandy, "Wow, look at you. You have lost a lot of weight. That tight skirt and blouse really shows off your curves and makes you look irresistible."

After a couple of cocktails at the evening reception while out of sight of the main reception, Director Blue grabs Heidi in the hallway and tries to fondle her.

**What should each of the employees done  
in response to Director Blue?**

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# Proper Responses to Harassment

## Direct Communication

Clearly state behavior is unwelcome

## Document Incidents

Record dates, times, witnesses, details

## Report to Management

Follow company reporting procedures

## External Resources

CRD complaint if internal resolution fails



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# Verbal Harassment Examples



## Flirting / Propositions

Unwelcome romantic or sexual advances



## "Jokes"

Sexual humor, innuendos, offensive comments



## Personal Remarks

Comments about body, appearance or sexuality



## Persistent Requests

Continuing to ask for dates after refusal

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## AB2053: Workplace Conduct Training

Conduct of an employer or employee with **malice** that a **reasonable person** would find hostile, offensive, and unrelated to legitimate business interests.



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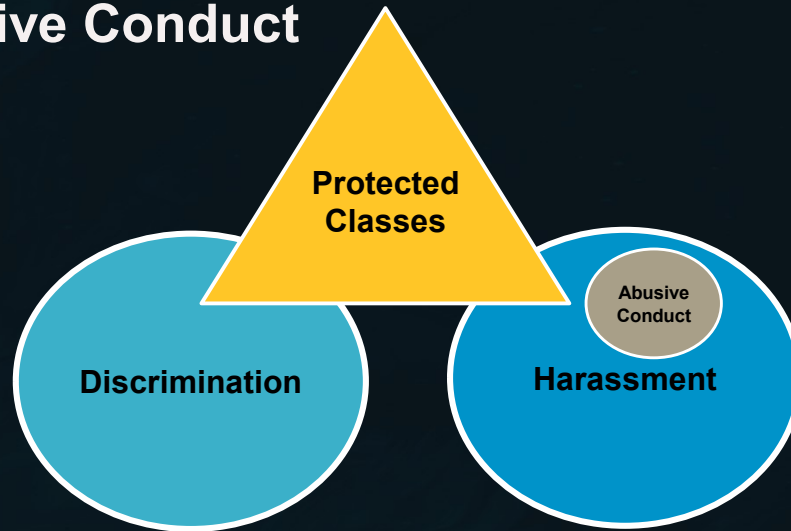
## 7 Types of Abusive Conduct

- Ignoring, isolation and exclusion
- Minimization
- Creating hostility among colleagues
- Undue criticism
- Projection of blame, taking credit
- Deception
- Manipulation



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## Discrimination, Harassment & Abusive Conduct



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## Unwelcome Non-Verbal Conduct

- Staring
- Suggestive noises
- Printed calendars or posters
- Inappropriate letters or email;
  - Facebook, Twitter, videos, etc.
- Sexual content on computer displays



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## Scenario

A Manager has daily meetings with some staff first thing in the morning. They convene in his office with the door closed. The Manager's assistant is able to hear the manager refer to women as "sandwich makers" and "sweet baby". She confronts the Manager, who just laughs it off.

Could this be sexual harassment?

**YES** or **NO** or **IT DEPENDS**

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## Digital Harassment

- Face-to-face vs. digital contact
- Use care with:
  - Email and instant messaging
  - Forums, discussion boards and blogs
  - Social networking sites
  - Photo and video sharing
  - Text messaging



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## What would you do?

You see and hear two coworkers standing and talking to each other and laughing about a picture on a tablet. Another coworker sitting at her desk nearby is shaking their head and looking uncomfortable.

Is this sexual harassment?

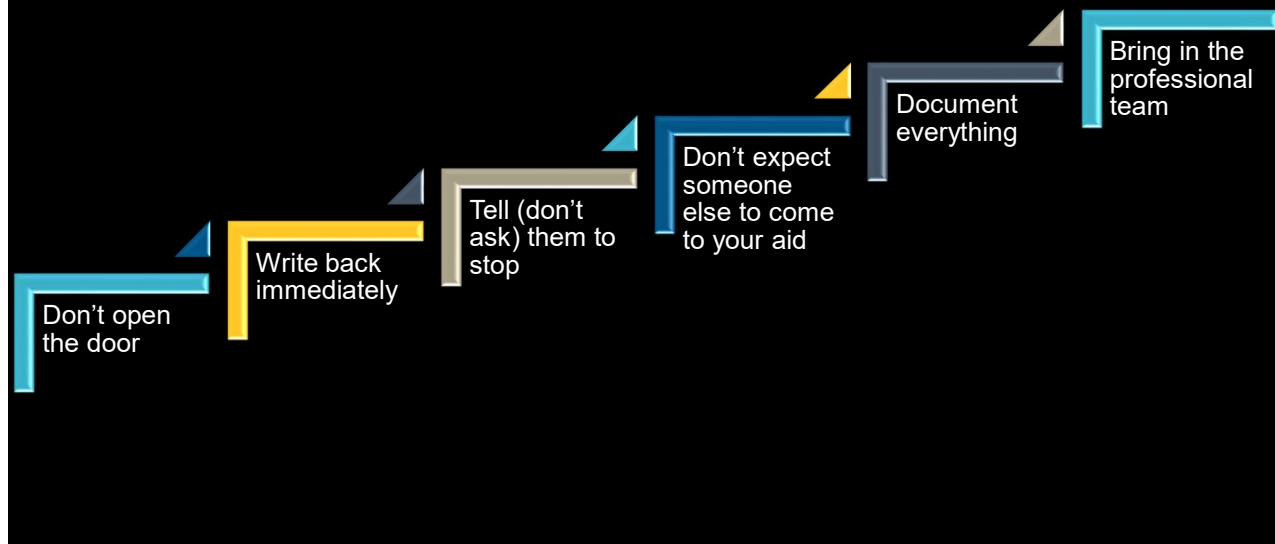


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Hi Board President of BigTown Water. My name is Angelica and I'm a Board Member at ACME Water District. I wanted you to know that your general manager has been sending me text messages every night after work since the ACWA Conference last month where we met. *I didn't mind sharing my contact info with him to connect at first, but now he keeps asking me to go out. It's so uncomfortable!* I texted him I wasn't interested and blocked him, but he found my email address and *now keeps sending me emails from his personal email.* I know *it's all happening after work,* but *can you do something about that?*

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# Curbing Electronic Harassment



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## Impact of Sexual Harassment

### Individual?

- Humiliation
- Financial
- Job performance
- Family
- Stress
- Absenteeism
- In-fighting
- Medical

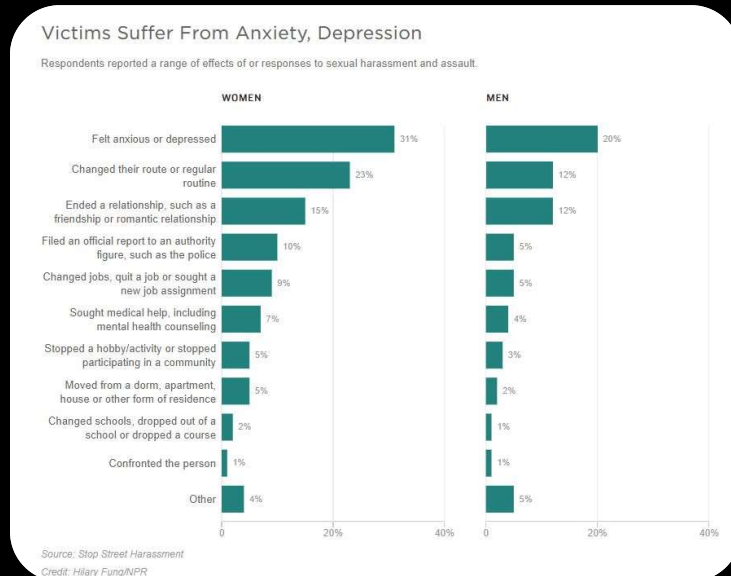
### Agency?

- Productivity
- Procedures
- Safety
- Morale
- Reputation
- Turnover
- Recruitment
- Customer relations

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## Personal Harm



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## The Cost of Workplace Stress

**50%**

Higher Healthcare Costs  
In stressful workplaces

**\$48B**

Annual Expense  
From high-pressure environments

**550M**

Lost Workdays  
Due to stress annually

**80%**

Doctor Visits  
Include stress complaints

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## What Can We Do?



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## Bystander



—THE—  
**GOOD**  
—YOU CAN—

100 PIPERS

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# Your Role in Prevention



## Know Your Responsibilities

Understand policies and reporting procedures

## Take Action

Address all complaints seriously

## Document Everything

Keep detailed records of incidents and responses

## Seek Support

Don't handle difficult situations alone

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# Follow Your Policies



## No Privacy Expectation

In work communication, regardless of device



## Immediate Response

Address inappropriate conduct promptly



## Regular Distribution

Share policies with staff frequently



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## Recognizing Harassment

 <b>Performance Shift</b> Sudden quality decline or disorganization	 <b>Behavior Change</b> Isolation, reduced friendliness	 <b>Attendance Issues</b> Tardiness, absences, long lunches	 <b>Communication Problems</b> Tension, avoidance of certain colleagues
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## GET HONEST AND SPEAK UP!



Strong body language

Confidence & calm

Never apologize

Stay on point

Decide when you are done

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Name the  
behavior  
and how  
you felt

Attack the  
behavior  
not the  
person

Tell them  
exactly  
what you  
want

Ask them  
to agree  
to stop

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## Board Responsibilities

- 
**Take Action When Witnessing**  
 Legally required if "knew or should have known"
- 
**Know Your Policies**  
 Understand organizational procedures thoroughly
- 
**Report Properly**  
 Inform GM, HR, legal counsel or Board President

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## Board Response Responsibilities

- 
**Direct to Proper Channel**  
 Guide employee to correct reporting procedure
- 
**Reference Policy**  
 Remind employee to follow established procedures
- 
**Document Interaction**  
 Make note of conversation details
- 
**Share Information**  
 Communicate with appropriate staff person



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# Build a Culture of Respect

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## Open Communication

Create channels for honest feedback



## Mutual Respect

Model positive interactions daily



## Recognition

Acknowledge positive contributions

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## Accountability

Consistent consequences for violations

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# Creating a Safe Workplace Culture



## Model Respectful Behavior

Leaders set the example



## Encourage Reporting

Create safe channels for concerns



## Consistent Policy Enforcement

Apply rules equally to everyone



## Team Building

Foster positive workplace relationships

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## An employee at your agency just walked in...



“Hey boss. I just overheard the Board President telling Carla that he is glad she joined the staff since she is ‘easy on the eyes’ – unlike all the women in the office. She shrugged and giggled weirdly and he left, but it was really awkward.”

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## Responding to a Report



### Listen Carefully

Employee reports Board President's inappropriate comment

### Thank Them

Acknowledge courage in reporting the situation

### Take Notes

Document details of the incident

### Follow Protocol

Report to appropriate channels per policy

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## Think Before You Act



Family Discussion Test

Empathy Check

Courtroom Test

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## Key Takeaways for Prevention

### 1 Respect Boundaries

When in doubt, maintain professional distance

### 2 Consider Impact

Focus on how behavior affects others

### 3 Speak Up

Report concerning behavior promptly

### 4 Safeguard Against Retaliation

Understand protection from retaliation

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# Congratulations on completing your training!

## Thank You for Attending



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Scan the QR Code with  
the Camera/QR App  
on your mobile device



# SEXUAL HARASSMENT

## FACT SHEET



Civil Rights  
Department  
STATE OF CALIFORNIA

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.

## SEXUAL HARASSMENT INCLUDES MANY FORMS OF OFFENSIVE BEHAVIORS

BEHAVIORS THAT MAY BE SEXUAL HARASSMENT:

1. Unwanted sexual advances
2. Offering employment benefits in exchange for sexual favors
3. Leering; gestures; or displaying sexually suggestive objects, pictures, cartoons, or posters
4. Derogatory comments, epithets, slurs, or jokes
5. Graphic comments, sexually degrading words, or suggestive or obscene messages or invitations
6. Physical touching or assault, as well as impeding or blocking movements

Actual or threatened retaliation for rejecting advances or 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 harassment. In addition, an employer may be liable for the harassment by a non-employee (for example, a client or customer) of an employee, applicant, or person providing services for the employer. An employer will only be liable for this form of harassment if it knew or should have known of the harassment, and failed to take immediate and appropriate corrective action.

Employers have an affirmative duty to take reasonable steps to prevent and promptly correct discriminatory and harassing conduct, and to create a workplace free of harassment.

A program to eliminate sexual harassment from the workplace is not only required by law, but it is the most practical way for an employer to avoid or limit liability if harassment occurs.



# SEXUAL HARASSMENT

## FACT SHEET



Civil Rights  
Department  
STATE OF CALIFORNIA

### CIVIL REMEDIES

- **Damages for emotional distress from each employer or person in violation of the law**
- **Hiring or reinstatement**
- **Back pay or promotion**
- **Changes in the policies or practices of the employer**

### ALL EMPLOYERS MUST TAKE THE FOLLOWING ACTIONS TO PREVENT HARASSMENT AND CORRECT IT WHEN IT OCCURS:

- 1.** Distribute copies of this brochure or an alternative writing that complies with Government Code 12950. This pamphlet may be duplicated in any quantity.
- 2.** Post a copy of the Department's employment poster entitled "California Law Prohibits Workplace Discrimination and Harassment."
- 3.** Develop a harassment, discrimination, and retaliation prevention policy in accordance with 2 CCR 11023. The policy must:
  - Be in writing.
  - List all protected groups under the FEHA.
  - Indicate that the law prohibits coworkers and third parties, as well as supervisors and managers with whom the employee comes into contact, from engaging in prohibited harassment.
  - Create a complaint process that ensures confidentiality to the extent possible; a timely response; an impartial and timely investigation by qualified personnel; documentation and tracking for reasonable progress; appropriate options for remedial actions and resolutions; and timely closures.
  - Provide a complaint mechanism that does not require an employee to complain directly to their immediate supervisor. That complaint mechanism must include, but is not limited to including: provisions for direct communication, either orally or in writing, with a designated company representative; and/or a complaint hotline; and/or access to an ombudsperson; and/or identification of CRD and the United States Equal Employment Opportunity Commission as additional avenues for employees to lodge complaints.
  - Instruct supervisors to report any complaints of misconduct to a designated company representative, such as a human resources manager, so that the company can try to resolve the claim internally. Employers with 50 or more employees are required to

include this as a topic in mandated sexual harassment prevention training (see 2 CCR 11024).

- Indicate that when the employer receives allegations of misconduct, it will conduct a fair, timely, and thorough investigation that provides all parties appropriate due process and reaches reasonable conclusions based on the evidence collected.
- Make clear that employees shall not be retaliated against as a result of making a complaint or participating in an investigation.

**4.** Distribute its harassment, discrimination, and retaliation prevention policy by doing one or more of the following:

- Printing the policy and providing a copy to employees with an acknowledgement form for employees to sign and return.
- Sending the policy via email with an acknowledgment return form.
- Posting the current version of the policy on a company intranet with a tracking system to ensure all employees have read and acknowledged receipt of the policy.
- Discussing policies upon hire and/or during a new hire orientation session.
- Using any other method that ensures employees received and understand the policy.

**5.** If the employer's workforce at any facility or establishment contains ten percent or more of persons who speak a language other than English as their spoken language, that employer shall translate the harassment, discrimination, and retaliation policy into every language spoken by at least ten percent of the workforce.

**6.** In addition, employers who do business in California and employ 5 or more part-time or full-time employees must provide at least one hour of training regarding the prevention of sexual harassment, including harassment based on gender identity, gender expression, and sexual orientation, to each non-supervisory employee; and two hours of such training to each supervisory employee. Training must be provided within six months of assumption of employment. Employees must be trained every two years. Please see Gov. Code 12950.1 and 2 CCR 11024 for further information.

### TO FILE A COMPLAINT

#### Civil Rights Department

[calcivilrights.ca.gov/complaintprocess](http://calcivilrights.ca.gov/complaintprocess)

Toll Free: 800.884.1684

TTY: 800.700.2320

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### **About ACWA JPIA**

ACWA JPIA is a nonprofit, member-driven public entity focused entirely on meeting the unique loss coverage and employee benefit needs of California water agencies.

Water agencies have a champion in ACWA JPIA for affordable loss coverage programs and comprehensive employee benefits, effective risk management, quality training programs and personalized customer service.

Your feedback matters to JPIA! After the course, please scan this QR code with your mobile device (camera or QR code reader app) to complete the course evaluation.



Or, go to <https://www.surveymonkey.com/r/JPIATrainingEval> using your internet browser.