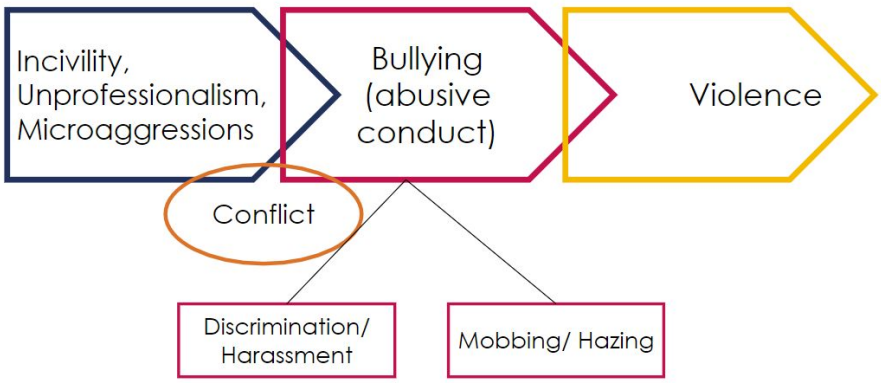
HARASSMENT PREVENTION TRAINING

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Incivility Escalates



Incivility: Rude behavior;
Unprofessionalism: Behavior that contradicts professional standards or ethics;
Microaggressions: Subtle, verbal and nonverbal slights, insults, indignities, and denigrating messages directed toward an individual due to their group membership, often automatically and unconsciously. Usually committed by well-intentioned folks who are unaware of the hidden messages being communicated.

Abusive Conduct: Conduct a reasonable person would find hostile, offensive and unrelated to an employer's legitimate business interests, including: repeated infliction of verbal abuse (e.g., derogatory remarks and insults); verbal or physical conduct that is threatening, intimidating or humiliating; or unjustified or unnecessary sabotage or undermining a person's work performance.

Discrimination: Treating people less favorably, or cutting them out of opportunities, because they belong to a protected class. Illegal in the U.S.

Harassment: Unwelcome conduct based on a protected class (e.g., race, religion, nationality, age, gender, etc). Unlawful when 1) enduring the offensive conduct becomes a condition of continued employment, or 2) the conduct is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile, or abusive. Illegal in the U.S.

Sexual Harassment: Sexual harassment, gender harassment, and harassment based on pregnancy, childbirth, or related medical conditions, including gender-based harassment of a person of the same sex as the harasser. Can include unwanted sexual advances, or visual, verbal or physical conduct of a sexual nature. Illegal in the U.S.

Mobbing: Harassment, abuse and humiliation by two or more people directed at one or more people, with the intention of forcing those people out of the team, department or organization.

Hazing: Initiation activities that involve harassment, abuse or humiliation. Often seen in social groups such as gangs, sports teams, fraternities, and workplaces that have a core groups of "insiders."

Violence: Any act or threat of physical violence, harassment, intimidation, or other threatening disruptive behavior, ranging from threats and verbal abuse to physical assaults, and even homicide.

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Examples of Abusive Conduct

Repeated Verbal Abuse	Verbal/Physical Conduct that is Humiliating/Intimidating	Sabotage
• Angry yelling • Aggressive nonverbal communication (e.g., puffed up chest, getting in personal space) • Abusive/aggressive emails • Insults, name-calling	• Pointing out mistakes in public • Insults made in front of others • Not inviting to meetings • Playing tricks • Punitive punishment in front of others	• Giving incomplete instructions • Giving poor performance evaluation without useful info • Constantly changing work tasks • Giving impossible deadlines/workload

Harassment

Protected Characteristics include:

Race
Color
National Origin
Sex
Sexual Orientation
Cultural Hairstyles

Gender
Gender Identity
Gender Expression
Religious Creed
Mental Disability
Physical Disability

Medical Conditions
Military/Veteran Status
Marital Status
Age
Genetic Characteristics
Ancestry

- It is unlawful to harass (or bully) based on these protected characteristics
- Sexual harassment is defined as any type of verbal or physical conduct focused around sex, gender, pregnancy, childbirth, sex stereotype, gender identity, gender expression, transgender, or sexual orientation.
- Every person who is liable for sexual harassment is personally liable for the damages
- Employers are strictly liable for harassment by managers and supervisors, and can also be liable for employees if the employer knew or should have known about the conduct
- Even if an employee fails to use the options made available by the employer to resolve it, an employer is liable in California.

Quid Pro Quo ("this for that"): employee's job benefits conditioned on acceptance of/consent to sexual activity.

Hostile Work Environment: overt physical, verbal or visual conduct that is so "severe or pervasive" enough it creates a hostile or abusive work environment.

> **Severe or pervasive refers to:** the nature of the conduct , frequency of the conduct, period of time over which it occurred, whether the conduct was physically threatening or humiliating, and the extent the conduct unreasonably interfered with an employee's work performance

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Physical Conduct	Verbal Conduct	Visual/Nonverbal Conduct
• Kissing, hugging, touching, groping • Blocking movement • Snapping a bra, giving a wedgie, sport-tapping on the bottom • Leaning over or brushing someone	• Sexual jokes & remarks • Derogatory comments • Epithets & slurs • Personal inquiries • Emails, text messages, videos	• Ogling, leering, winking • Suggestive gestures, facial expressions • Humiliating images on computer screens, t-shirts, posters • Kissing noises, licking lips

Sexual harassment is about power, not sex.

Complainants only have to prove in court that it occurred and that it affected their dignity. There does not have to be tangible economic loss or other adverse actions.

LGBTQ

Members of the LGBTQ community can often times become the targets of bullying, harassment, and even violence. Some examples of LGBTQ related sexual harassment include:

- Restricting use of common bathrooms that correspond with a person's gender identity
- Making offensive comments or using derogatory terms when referring to someone's sexual orientation
- Harassing a person for dating, being married to, or taking the last name of a same-sex partner
- Remember, a person's identity or expression is irrelevant - making comments about these things is against the law

Other examples of unlawful harassment aimed at other protected characteristics:

- Using racially derogatory words or epithets
- Making gestures or displaying pictures that would offend a particular group
- Commenting on a person's skin color or other racial or ethnic characteristics
- Commenting negatively about a person's religious beliefs (or lack of such beliefs)
- Expressing negative stereotypes about an employee's birthplace or ancestry
- Making comments about a person's age (re employees who are 40 years old or older)
- Making comments about an employee's mental or physical impairment

Resources available to you:

California Department of Fair Employment and Housing – www.dfeh.ca.gov
Federal Equal Employment Opportunity Commission – www.eeoc.gov

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Remedies available to people who win sexual harassment cases in court include:

- *Injunctive Relief:* Training, development of changes in policies/procedures
- *Economic Damages:* Lost wages, medical expenses, job search expenses
- *Other Damages:* Emotional distress, loss of enjoyment of life
- *Punitive Damages:* Damages assigned to you in order to punish the employer

In California, one is not required to follow the employer's complaint procedure or attempt to remedy the situation using the employer's protocols before filing a lawsuit. However, an employer can use it as a defense and will likely pay out less than if the individual had used their procedures.

Retaliation

Punishing job applicants or employees for asserting their rights to be free from discrimination and harassment is prohibited by law. Asserting these EEO rights is called "protected activity," and it can take many forms. For example, it is unlawful to retaliate against applicants or employees for:

- filing or being a witness in a charge, complaint, investigation, or lawsuit
- communicating with a supervisor or manager about employment discrimination, including harassment
- answering questions during an employer investigation of alleged harassment
- refusing to follow orders that would result in discrimination
- resisting sexual advances, or intervening to protect others
- requesting accommodation of a disability or for a religious practice
- asking managers or co-workers about salary information to uncover potentially discriminatory wages

Examples of retaliation include:

- reprimanding the employee, or giving a poor performance eval lower than it should be
- transferring the employee to a less desirable position;
- engaging in verbal or physical abuse;
- threatening to make, or actually making reports to authorities (such as reporting immigration status or contacting the police);
- increasing scrutiny; punitive punishment
- spreading false rumors, treating a family member negatively (for example, cancelling a contract with the person's spouse);
- making the person's work more difficult (for example, changing shifts specifically to conflict with family responsibilities)

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Everyone is Responsible

It is everyone's responsibility to create a safe and respectful work environment. To do that, you can:

- Speak up when you witness any negative behavior, including incivility, bullying, harassment, or discrimination.
- Analyze your own behavior
- Live your company core values, and at the very least, live your own moral and ethical values
- Participate in creating a positive environment where everyone thrives.

Consider what inclusivity - vs exclusivity - looks like, and take some notes here:

If you see something that creates an exclusive work environment, then try:

- Focus on the impact: *"I know you don't realize it but by saying ___ you really offended ___. Instead try ___."*
- Remind them of your core values: *"When you say/do things like ____ it really goes against our core value of understanding and respecting diversity. We embrace diversity throughout our organization."*
- Challenge the Stereotype: *"I think that is a stereotype. I have learned that ___."*
- Appeal to Values or Principles: *"I know that you really care about everyone feeling valued, and when you do ___, it really undermines those intentions."*

Source: Goodman, D. (2011). Promoting Diversity and Social Justice: Educating People from Privileged Groups. New York: Routledge.

Review your harassment prevention corporate policy for information about your employer's policies for behavior, complaints and investigations. Employers must provide training to the entire workforce every two years, and must conduct thorough investigations when complaints are made.

Your complaint procedure should generally follow these steps:

1. You report to your supervisor, higher management, or HR. Provide details in writing if you can.
2. Your complaint will be investigated, which means your complaint may not be able to remain totally confidential as people who work with you are interviewed.
3. If the investigation finds the details of your complaint to be true based on interviews and any documentation provided, action will be taken in accordance with the circumstances.
4. If the investigation is unable to prove the facts, your employer should still do its best to find a good resolution that works for everyone.

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MANAGER/SUPERVISOR WORKBOOK

Did you know that 75% of people who feel harassed at work never report it to their employer? That means you have to make them comfortable to do so, show them that they can trust you, and help them see that you care about their ability to feel safe and respected at work.

People don't speak up for a very long list of reasons, including:

- fear of retaliation
- fear of looking weak
- the bystander effect
- previous experience
- making waves can be career ending
- your organizational norms and culture

To truly prevent harassment - or minimize any negative behavior at all - you and your leaders must be focused on:

1. Following your policies and procedures
2. Being strong leaders who make it known all types of negative behavior are not tolerated
3. Ensuring your workforce is engaging in positive and healthy behaviors.

Elements of an Effective Policy

1. List all categories protected under FEHA
2. State that harassment is prohibited by everyone
3. Provide confidentiality to the extent possible
4. Promise timeliness for complaints
5. State investigations will be impartial
6. Investigations will be documented and tracked for progress, conducted in a timely manner, and will reach reasonable conclusion based on evidence
7. Designate several avenues for receiving complaints, and instruct supervisors on who to report complaints to
8. If misconduct found, appropriate measures will be taken
9. False complaints will also be met with appropriate measures
10. Prohibit retaliation

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Taking Complaints

Your obligations:

- Take immediate steps to ensure safety and prevent conduct from continuing
- Report the allegation to the appropriate person (see your policy, but likely it's HR), *even if complainant requests confidentiality*
- Ensure a prompt investigation is conducted (HR will generally handle this)
- Ensure situation is appropriately addressed to deter further misconduct and ensure safety

Best practices:

- Keep in mind this person is showing vulnerability
- Use open and active communication and listening
- Ask lots of open-ended questions, take detailed notes
- Be aware of your reaction; it's too soon to take sides
- Discuss your next steps and provide a timeline
- Follow up and follow up until issue is resolved
- Despite investigation findings, take action

Strong Leadership: Investigations

An internal or external investigator should:

- Conduct a thorough interview with the complainant
- Give the accused a chance to share their perspective
- Interview relevant witnesses
- Obtain and review all relevant documents
- Attempt confidentiality
- Reach a fair and reasonable conclusion based on the facts

Smart companies will do climate assessments too. Where there is one complaint there are usually many more people unwilling to come forward.

Focusing on the Right Behavior All the Time

<u>Action Item 1</u>: Set expectations

1. Gather your team and ask: *How would you like to be treated by your peers, managers and customers?*
2. Give the group 10 minutes to develop a list
3. Collect answers publicly
4. Discuss specific examples of those behaviors in action
5. After the meeting, locate themes in the list and use them for future meetings, in performance conversations, etc.

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<u>Action Item 2</u>: Use the resources made available to you by your organization - your core values for example. Here are some examples:

- Respect - By (date), my team and I will write down one thing we respect in each other, and hold a meeting to share our thoughts.

- Inclusion - Within five days of a new hire starting on my team, we will hold a team meeting and each of us will answer one question about ourselves in order to make that new hire feel more included and invited in.

Now it's your turn. Think of your company's core values, and develop at least one action item for at least one core value. Repeat this exercise with your team.

<u>Action Item 3</u>: Coach negative behavior, even incivility or rudeness. What are some best practices for coaching bad behavior or poor performance?

Coaching Script for Those Who Deny They Exhibit Negative Behavior

> Michael: *We've had a steady stream of complaints from coworkers about their experiences interacting with you - we don't see this with other people. This is not acceptable and cannot continue. We need to have you turn this around.*
>
> Ryan: *What complaints? I'm not doing anything, and don't you want to hear my side?*
>
> Michael: *Ryan, I'm not going to engage in a fact battle with you about the details because I wasn't there. There's only one fact here that is absolutely true - several people perceive your behavior as too abrasive, and that one particular fact has to change. You must learn to speak to people with respect. Failure to do so will result in _____.*

What did Michael do well in this conversation?

Coaching answers three questions:

1. What are the negative perceptions?
2. What is causing them?
3. What strategies can we develop to eliminate these negative perceptions?

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<u>Action Item 4</u>: Commit to a Culture of Respect & Inclusivity

Characteristic or behavior	Some-times	Most of the time	Always
People focus			
Do you actively seek out the views of others?			
Are you committed to team development?			
Do you instill confidence in others?			
Do you tolerate mistakes from others?			
Do you encourage open feedback and debate?			
Personal integrity			
Do you do what you say you will do?			
Do you show respect to everyone?			
Can you say sorry when you have made a mistake?			
Are you open and honest about your mistakes and learn from them?			
Do you focus on using effective, positive communication often?			
When you disagree with a person, do you keep an open mind anyway?			
Are you fair in all your dealings with others?			
Visibility			
Do you actively promote an open door approach?			
Do you champion a culture of respect and dignity?			
Are you available to listen to the views of others?			
Do you regularly talk about the need for respect and dignity at work?			
Have you put building a culture of respect at the top of your priorities?			
Do you exemplify the core values, and encourage others to do the same?			
Do you have a set action plan for building a positive culture, and are you following through on it?			

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Promoting excellence			
Do you give personal recognition to others for accomplishments, however small they may be?			
Do you offer regular performance coaching to all employees?			
Do you avoid micromanaging, and step in only when it's needed?			
Do you work with employees to develop opportunities for performance improvement and action plans?			
Challenging poor behavior			
Do you put a stop to unacceptable behavior in the moment?			
Do you readily and frequently meet with those engaging in unacceptable behavior to help them correct it?			
Do you have a zero tolerance policy for poor behavior, and enforce it?			

Your Next Steps?

1. Ensure each employee has received a copy of your harassment prevention policy as part of this training program.
2.
3.
4.
5.

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