



1

California Protected Classes

Race, Color, National Origin, Religion (includes religious dress and grooming practices), Sex (including pregnancy, childbirth, and related medical conditions), Disability (physical or mental), Age (40 and older), Ancestry, Genetic Information, Marital Status, Reproductive Health, Sexual Orientation, Gender Identity or Expression and AIDS/HIV, Medical condition, Political Activities or Affiliations, Military or Veteran Status and Status as a victim of domestic violence, assault, or stalking.

2

Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other physical, verbal, or visual conduct based on sex when:

- Submission to such conduct is made either explicitly or implicitly a term or condition of the individual's employment, (**Quid Pro Quo**)
- Submission to or rejection of the conduct by an individual is used as the basis for employment decisions affecting that individual, (**Quid Pro Quo**) or
- Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment. (**Hostile Environment**)

(Applies to men and women equally.)

3

Sexual harassment may include a range of explicit and even subtle unwelcome behaviors and may involve individuals of the same or different gender. Depending on the circumstances, these unwelcome behaviors may include, but are not limited to ...

4

- Making offensive comments about someone's sexual orientation or gender identity
- Making sexual comments about appearance
- Inappropriate touching, leaning over, massaging shoulders, or purposefully brushing up against another person
- Asking sexual questions about preferences, history, or fantasies
- Sexual teasing, jokes, or remarks
- Displaying inappropriate sexual images or videos
- Pressure to go out on a date or for sexual favors
- Sexual looks or gestures or whistling at someone
- Sending letters, telephone calls, e-mails, texts, or other materials of a sexual nature
- Referring to another as a "babe," "honey," or "tootsie", etc.
- Kissing sounds, howling and smacking lips
- Turning work discussions to sexual topics
- Spreading rumors or telling lies about a person's sex life
- Indecent exposure
- Actual or attempted rape or sexual assault

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"Abusive Conduct" and Hostile Environment" Under California's Fair Employment and Housing Act

California law uses the term "Abusive Conduct" to further define illegal harassment.

6

“Abusive Conduct” in the Workplace Under California’s Fair Employment and Housing Act

For purposes of California law, “abusive conduct” means 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. Abusive conduct 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. A single act shall not constitute abusive conduct, unless especially severe and egregious.



7

“Abusive Conduct” in the Workplace Under California’s Fair Employment and Housing Act

“Abusive conduct” in the workplace is, essentially, workplace bullying that happens pervasively enough to start causing distress to one or more employees, so much so that it would get in their way of performing their job(s). Differences in opinion or interpersonal conflicts do not necessarily constitute abusive conduct without the pervasively malicious, hostile, threatening, inappropriate, or discriminatory intent or actions.



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PRACTICAL EXAMPLES

Gender Identity, Gender Expression and Sexual Orientation



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LEGAL/ILLEGAL vs. RIGHT/WRONG

Major Federal Protected Classes

***Civil Rights Act of 1964:
Race, Color, Religion, National Origin & Sex
(Now includes Sexual Orientation & Gender Identity)***

Age In Discrimination Act of 1967

Pregnancy Discrimination Act of 1978

Americans With Disabilities Act of 1990



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Pronouns and Misgendering:

Equal Employment Opportunity Commission (EEOC) Guidance

What does it mean to misgender someone?

**Gendered
(e.g., she/her/hers and he/him/his)**

**Nongendered
(e.g., singular use of they/them/theirs; ze/hir/hirs)**



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EMPLOYEES

Doe v. Triangle Doughnuts, LLC,
472 F. Supp. 3d 115 (E.D. Pa. 2020).




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Federal Compensatory & Punitive Damages

| | |
|---|-----------|
| Fifteen or more and fewer than 101 employees: | \$ 50,000 |
| More than 100 and fewer than 201 employees: | \$100,000 |
| More than 200 and fewer than 501 employees: | \$200,000 |
| More than 500 employees: | \$300,000 |



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California State Law Recovery

Plaintiffs can recover damages for past and future:

- Medical and psychiatric expenses,
- Wage loss,
- Emotional distress (pain and suffering) and
- Punitive damages.



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State & Federal Law


Plaintiffs can recover attorney's fees



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LIABILITY

Individuals who engage in acts of illegal harassment may be subject to civil and criminal penalties.



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REMEDIES

Victims may also obtain cease and desist orders, hiring, promotion or reinstatement, compensatory damages, and back pay.



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What Should A SUPERVISOR Do If He or She Is Accused Of Illegal Harassment?



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Take a few minutes to look at your own Internal Policy & Internal Complaint Process



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REPORTING A CHARGE OF ILLEGAL HARASSMENT

1. Inform Your Employer: Start by informing your employer about the harassment you're facing. This step is crucial because your employer should have an opportunity to address the situation internally.

2. File a Harassment Complaint with the California Civil Rights Department (CRD).

1-800-884-1684

<https://calcivilrights.ca.gov/>

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REPORTING A CHARGE OF ILLEGAL HARASSMENT

3. Contact the Equal Employment Opportunity Commission (EEOC)


**General information about the laws
the EEOC enforces and filing a charge:**

1-800-669-4000

1-800-669-6820 (TTY for Deaf/Hard of Hearing callers only)

1-844-234-5122 (ASL Video Phone for Deaf/Hard of Hearing callers)

or
info@eeoc.gov

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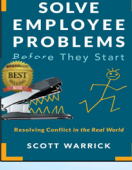
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Scott's #1 Best Sellers

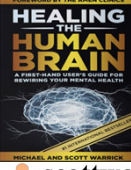
Want Scott as a Trainer or Speaker?

Need Scott's Help?

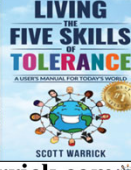
614-738-8317 scott@scottwarrick.com



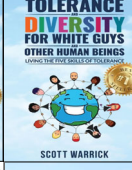
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For more information and further assistance, please contact ...

Scott Warrick's Human Resource Consulting & Employment Law Services
(www.scottwarrick.com)
&
Scott Warrick's Employment Law Services.
scott@scottwarrick.com

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