Safe and Respectful Workplaces:

Preventing Sexual Harassment and Abusive Conduct in the Janitorial Industry

WORKER TRAINING GUIDE

This training program was developed by the Labor Occupational Health Program at UC Berkeley for the Department of Industrial Relations and the Commission on Health and Safety in Workers' Compensation.

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ABOUT THIS TRAINING GUIDE

Preface

This sexual harassment and abusive conduct training is for workers in the janitorial industry in California and meets the requirements of California's Property Service Workers Protection Act (AB 1978) and Fair Employment and Housing Act. The training must be presented interactively by a qualified trainer. (For a list of qualifications, see 2 CCR § 11024.)

The training is two hours long and covers the following topics:

(1) Introduction (5 minutes)

(2) Understanding Sexual Harassment and Abusive Conduct (45 minutes)

(3) Responding to Sexual Harassment and Abusive Conduct (45 minutes)

(4) Worker Rights and Employer Responsibilities (20 minutes)

(5) Conclusion (5 minutes)

Training materials include this guide and a video, both downloadable at www.dir.ca.gov/dlse/Janitorial-Training.html.

How This Guide Is Organized

Topic Overview

These introductory pages describe each topic, specify the amount of training time it requires, and list the materials needed.

Script

After the overview is a script you can follow during the training. It includes language you can use to explain concepts, instructions for facilitating activities, questions you can ask participants to guide discussion, and answers you might expect from them.

Supplements

This section includes a legal supplement, handouts for distribution before or during the training, visual aids, and an evaluation form.

ABOUT THIS TRAINING GUIDE

Understanding the Script

The script takes you through the training step by step. It also includes boxes, or sidebars, that feature ideas for optional activities.

These icons in the script are reminders that you need to take action:

Play a video segment.

Refer to a handout.

Divide class into small groups.

Give groups time for discussion.

Lead a discussion.

ABOUT THIS TRAINING GUIDE

Using the Supplements

Legal Supplement

This section contains information you can refer to if you have questions about the law. It's for reference only.

Handouts

Four handouts are included in this guide. Each topic overview identifies the handouts you'll need to teach that topic. In preparing for a training, you should make enough copies of the handouts for each participant to have a set. You can distribute all the handouts together at the beginning of the training or individually when you need to refer to them.

Visual Aids

Also included are four enlarged illustrations from the handout "What Is Sexual Harassment?" You may print a single set of these illustrations and post them on a wall for reference to help you explain sexual harassment.

Evaluation Form

The evaluation form is an opportunity to learn how participants responded to the training. If you wish, distribute copies and ask participants to fill out the form at the end of the training. Make sure to let participants know that their responses will remain anonymous.

Using the Video

You will need a laptop or tablet and a projector to show the video segments referred to in the script. You should download the video onto your laptop or tablet before the training. You might want to stream the video from the website, but it's safer not to depend on having internet access during the training.

OVERVIEW

TOPIC 1

Introduction

Description

- **Welcome participants.**
- **Describe the agenda and learning objectives.**
- **Warn participants about subjects that can be upsetting.**
- **Optional: Explain your ground rules.**

Duration: 5 min.

Materials

☐ Sign-in sheet

☐ Pens

☐ Optional

- Flipchart or whiteboard
- Markers

OVERVIEW

TOPIC 2

Understanding Sexual Harassment and Abusive Conduct

Description

- **Play "How Sexual Harassment Affects Workers: True Stories from Janitors."**
- **Ask participants about their reactions.**
- **Explain handout "What Is Sexual Harassment?"**
- **Play three video scenes illustrating harassment.**
- **Have small groups refer to the handout to discuss how the scenes are examples of harassment.**
- **Define abusive conduct.**

Duration: 45 min.

Materials

☐ Video segments
- "How Sexual Harassment Affects Workers: True Stories from Janitors" (00:50-3:00)
- "Carmen's Story" (3:12-4:11)
- "Carlos's Story" (4:13-5:20)
- "Maria's Story" (5:22-5:58)

☐ Handout
- "What Is Sexual Harassment?"

☐ Optional
- Enlarged copies of the images on the handout "What is Sexual Harassment?"
- Tape for posting images

OVERVIEW

TOPIC 3

Responding to Sexual Harassment and Abusive Conduct

Description

- **Discuss how workers in the scenes could respond to the harassment.**
- **Play three scenes showing how workers could respond.**

Duration: 45 min.

Materials

☐ Video segments

- "Strategies for Carmen's Story" (6:16-9:04)
- "Strategies for Carlos's Story" (9:05-10:24)
- "Strategies for Maria's Story" (10:25-13:49)

OVERVIEW

TOPIC 4

Worker Rights and Employer Responsibilities

Description

- **Explain worker rights and employer responsibilities.**
- **Refer to "Sexual Harassment at Work Is Illegal."**
- **Optional: Highlight key sections of the employer's sexual harassment policy.**

Duration: 20 min.

Materials

☐ Handouts

- "Sexual Harassment at Work Is Illegal"

☐ Optional

- The employer's sexual harassment policy or a summary

OVERVIEW

TOPIC 5

Conclusion

Description

- **Refer to "Resources for Addressing Sexual Harassment and Assault" and discuss resources.**
- **Play "Messages from Survivors."**
- **Optional: Ask participants to fill out workshop evaluations.**

Duration: 5 min.

Materials

☐ Video segment

- "Messages from Survivors" (13:54- 14:51)

☐ Handout

- "Resources for Addressing Sexual Harassment and Assault"

☐ Optional

- Trainer's handout with contact information for local resources
- Workshop evaluation forms

SCRIPT

OPTIONAL ACTIVITY

Set ground rules:

- Please take turns talking and listen respectfully.
- Please silence your phone and go outside if you need to use it.
- It's ok to say you disagree.
- Please respect others – even when you disagree.

TOPIC 1

Introduction

(5 min.)

Welcome. My name is _____. I'll be your trainer for this workshop on sexual harassment at work. This training was designed for janitors. The Property Service Workers Protection Act requires janitorial employers in California to train all janitors and supervisors on sexual harassment.

Today's training will last two hours. After the training, you will be able to:

- Define sexual harassment by its legal elements.
- Recognize common examples of harassment and abusive conduct in the workplace.
- Explain how harassment and abusive conduct affect workers.
- Identify strategies of the employer, supervisors, and coworkers for preventing and addressing wrongful conduct.
- Describe options for workers experiencing harassment or abusive conduct at work.

Harassment and abusive conduct can be difficult subjects to address. Some of you might have experienced harassment or even violence at work. We won't discuss our personal experiences as a group, but I'll provide information on options that could help in your particular situation. If any subject discussed during this workshop makes you uncomfortable, please feel free to step outside for a break anytime.

SCRIPT

OPTIONAL ACTIVITY

At any point during the training, write important words or concepts on a flip chart or whiteboard.

TOPIC 2

Understanding Sexual Harassment and Abusive Conduct

A. Impact Video (10 min.)

We're going to hear the stories of some janitors who experienced sexual harassment or assault at work. They'll tell you how it affected their lives.

Play "How Sexual Harassment Affects Workers: True Stories from Janitors" (00:50-3:00).

What words come to mind in reaction to the video?

Lead a discussion for 1-2 minutes.

Possible responses:

- Sad, angry, helpless, or anxious
- Unjust, unfair, or discriminatory
- Sympathy or solidarity

SCRIPT

What did you hear about the impacts of sexual harassment and violence at work?

Lead a discussion for 1-2 minutes.

Possible responses:

Emotional impacts

- Anxiety, stress, or fear
- Shame or loss of self-esteem
- Feeling helpless

Physical impacts

- Trouble sleeping
- Digestive problems

Economic impacts

- Losing one's job
- Losing one's home

You can see how sexual harassment can affect the health, safety, and well-being of workers and their families. It can also cost companies millions of dollars in lost productivity and legal expenses.

It's difficult to know how many people experience sexual harassment at work because most people don't know exactly what it is or don't report it. But based on surveys and studies, we can estimate that about 1 out of every 3 women has been harassed.

SCRIPT

OPTIONAL ACTIVITY

On the wall, post enlarged copies of the handout images representing parts of the definition. You can refer to these images as you explain the definition and analyze the videos.

B. Defining Sexual Harassment (10 min.)

Let's talk about how sexual harassment is defined. It's important to know the legal definition so you can understand and exercise your legal rights.

Sexual harassment includes a wide range of conduct, or actions. It's illegal whether the victim is an employee, job applicant, contractor, volunteer, or unpaid intern. But often workers who face harassing conduct don't know it's illegal.

Refer to "What Is Sexual Harassment?"

Let's look at what sexual harassment is according to the law. The definition has three parts.

First, sexual harassment is conduct (speech or actions) that is **sexual or related to sex**. Sexual comments can be harassment. Non-sexual comments based on sex – such as demeaning comments about women in general – can also be harassment.

The conduct doesn't have to be motivated by sexual desire. Often, sexual harassment is about exerting power more than it is about desire.

Harassment based on sexual orientation, gender identity, or gender expression is also illegal.

Second, the conduct is **unwelcome** or unwanted by the victim. The victim doesn't have to resist the harasser or complain to the employer. Because she's afraid to speak up, she might tolerate the harassment or even give in when the harasser demands sex. But if she doesn't want the conduct at the time it happens, it can still be harassment.

SCRIPT

OPTIONAL ACTIVITY

Instead of summarizing the definition, ask participants to summarize one part at a time. If someone's answer isn't complete, ask others to help them out.

Third, the conduct fits one of two types: EITHER trying to use a **reward or punishment** to get a sexual favor OR creating a **hostile work environment**. Let's look at these separately. The other side of the handout has examples of both of these types of harassment.

- ***Type 1:*** Trying to use a reward or punishment to get a sexual favor (quid pro quo harassment)

  Quid pro quo means "this in exchange for that." Someone who promises a job benefit (such as a better shift or a promotion) in exchange for a sexual favor (such as a date or sex) is breaking the law. So is someone who threatens to punish a worker to get a sexual favor, or punishes the worker for refusing one. The promise or threat doesn't have to be explicit to be harassment.

  For this type of conduct, the harasser is usually a supervisor – someone who has authority to hire, transfer, promote, assign, reward, discipline, or fire an employee; to respond to grievances; or to direct the victim's work – or someone else who has power over the victim.

- ***Type 2:*** Creating a hostile work environment based on sex or another protected characteristic can also be harassment.

  Characteristics protected from harassment under California law include not only sex, sexual orientation, gender, gender identity, and gender expression, but also race, color, national origin, religious creed, mental disability, physical disability, medical condition, military or veteran status, marital status, age, genetic characteristics, and ancestry. It's illegal to harass an employee based on any of these characteristics.

  - This type of conduct can be physical, verbal, or visual. Give me some examples from the handout.
  - The conduct can be directed toward OR witnessed by the person who reports it.

SCRIPT

- The conduct has to
  - be severe (for example, physically threatening or humiliating) OR pervasive (frequent) AND
  - change the conditions of employment (for example, by interfering with an employee's work performance).
- Widespread sexual favoritism, which involves preferential treatment based on a sexual relationship, can create a hostile work environment.

To summarize, the legal definition of harassment includes three parts:

- First, the harassing conduct is sexual or related to sex or to another protected characteristic.
- Second, the conduct is unwelcome.
- Third, either the harasser tries to use a reward or punishment to get sexual favors, or the harasser's conduct creates a hostile work environment.

Notice that an adverse employment action such as demotion or termination isn't part of this definition – that is, an economic loss isn't required for harassing conduct to be illegal.

Any questions?

C. Activity: Scene Analysis (25 min.)

Now that we know how sexual harassment is defined, let's apply the definition to some examples. We're going to watch three scenes based on the experiences of janitors. (Most of the actors are janitors too.) After each scene, we'll use the definition we just talked about to analyze the characters' conduct.

SCRIPT

First, I'll divide you into small groups.

Divide class into groups of 4 or 5.

As you watch each scene, think about the parts of the sexual harassment definition. We're going to start with "Carmen's Story."

Play "Carmen's Story" (3:12-4:11).

In your group, take a few minutes to talk about this scene, referring to the handout. Is this sexual harassment? Consider each part of the definition.

Give groups 3-5 minutes to discuss.

Let's take a moment to share. Is "Carmen's Story" an example of sexual harassment? . . . Who can explain why?

Lead a discussion on "Carmen's Story" for 5 minutes.

SCRIPT

Make sure the following points are covered in the discussion:

- Roberto's conduct is sexual: he calls Carmen gorgeous and asks her out on a date, not to a business meeting.
- Roberto's conduct is unwelcome: we can see that Carmen doesn't like it because she looks upset, makes excuses, and tries to leave.
- Roberto tries to get a sexual favor (the date) both by offering a job benefit (more hours) and by threatening punishment (firing Carmen and her brother). This is a classic example of a supervisor demanding a sexual favor.

Now let's watch "Carlos's Story."

Play "Carlos's Story" (4:13-5:20).

In your group, decide whether this is sexual harassment by going through the definition step by step.

Give groups 2-3 minutes to discuss.

Let's talk about "Carlos's Story" together. Is it an example of sexual harassment? . . . Who can explain why? . . . Does anyone disagree? . . . Why?

Lead a discussion on "Carlos's Story" for 5 minutes.

SCRIPT

Make sure the following points are covered in the discussion:

- Pedro's conduct is sexual: his comments are about Carlos's sexual orientation.
- Pedro's conduct is unwelcome: Carlos tells Ana that the comments bother him and appears uncomfortable when Pedro arrives.
- Carlos doesn't tell Pedro to stop, but he doesn't have to.
- Pedro's sexual innuendos and jokes (verbal conduct) create a hostile work environment because they are frequent: Carlos says Pedro makes comments every day, and Ana says Pedro has been bothering Carlos since he was hired.

Now let's watch "Maria's Story."

Play "Maria's Story" (5:22-5:58).

In your group, discuss whether this is sexual harassment. Get ready to explain the reasons for your conclusion.

Give groups 2-3 minutes to discuss.

Who would like to explain their group's conclusions? . . . Do other groups agree or disagree? . . . Why?

Lead a discussion on "Maria's Story" for 5 minutes.

SCRIPT

Make sure the following points are covered in the discussion:

- Bruno's conduct is sexual: he grabs Maria, and the video implies that he sexually assaults her.
- Bruno's conduct is unwelcome: Maria tells him twice to let her go and tries to escape his grip.
- Bruno's sexual assault (physical conduct) creates a hostile work environment because it is very serious. A sexual crime almost always creates a hostile work environment because of its severity.
- We don't know whether Bruno is a coworker, supervisor, or office worker in the building Maria cleans. His conduct is sexual harassment no matter who he is.

You've seen three examples of sexual harassment. It happens in many other ways, but we don't have time to talk about them. Instead, after you leave here today, please take time to review the handouts.

Abusive conduct is also illegal if it's motivated by a protected characteristic. Conduct is abusive if it is

- malicious,
- hostile or offensive to a reasonable person, and
- not related to an employer's legitimate business interests, including maintaining performance standards.

Examples of abusive conduct:

- Repeated verbal abuse such as derogatory remarks, insults, or epithets
- Verbal or physical conduct that a reasonable person would find threatening, intimidating, or humiliating
- Sabotage or undermining a person's work performance

SCRIPT

A single act isn't abusive conduct unless it's severe or egregious.

If abusive conduct isn't related to a protected characteristic but violates the employer's policy, it could still be grounds for discipline.

To wrap up this section, I want to emphasize a few points:

- The harasser and the victim can be either sex, and they can be the same sex or different sexes.
- In third-party harassment, the harasser doesn't work for your employer. A janitor can be harassed by a security officer working for another employer, someone who works in the building the janitor is cleaning, or a member of the public. The janitorial employer has to stop the harassment even if it doesn't employ the harasser.
- Knowing the definition of sexual harassment could help you, but you don't have to be an expert on the law to report inappropriate conduct. You can simply describe your experience.
- Finally, the employer must take steps to prevent and correct inappropriate conduct in the workplace.

Are there any questions before we move on to the next section?

SCRIPT

TOPIC 3

Responding to Sexual Harassment and Abusive Conduct

Activity: Scene Analysis (45 min.)

Now that we've talked about some examples of sexual harassment, we're going to talk about how we can respond to sexual harassment when it happens.

Let's go back to "Carmen's Story." Remember Carmen? Her supervisor, Roberto, asked her out to dinner. When Carmen refused to go out with him, he threatened to fire her. Roberto was demanding a sexual favor.

What can Carmen do in this situation? Can other people help her?

Lead a discussion for 5 minutes.

SCRIPT

Make sure the following points are covered in the discussion:

- Carmen could file a complaint by telling a different supervisor or the employer's human resources department about the incident.
- Carmen could file a complaint with a government agency.
- Carmen could seek information or support from friends, coworkers, her union, or a trusted organization.

Carmen could take any of these steps in response to harassment. But she has to decide for herself what to do. No one else can say what's best for her situation, and it's important to remember that the harassment isn't her fault.

Let's look at one possible set of choices.

Play "Strategies for Carmen's Story" (6:16-9:04).

Carmen talks to a trusted coworker, Rosa, about the harassment. This is a way of documenting what happened and getting support.

Rosa is a bystander, someone who witnesses the harassment or learns of it later. She becomes an ally by supporting Carmen. Rosa helps Carmen decide what to do and goes with her to file a complaint with the employer.

SCRIPT

Let's divide into groups again to talk about how the janitors in the other two scenes can respond to sexual harassment.

Divide class into groups of 4 or 5.

Assign some groups to talk about "Carlos's Story" and some groups to talk about "Maria's Story."

Please take 10 minutes to think about what the janitor or others in your story can do in response to the harassment.

Give groups 10 minutes to discuss.

Now let's share what you discussed. Let's start with "Carlos's Story."

Two coworkers, Pedro and Beatriz, make sexual jokes about Carlos because he's gay. Ana and the other workers at the table are bystanders. What can Carlos and the bystanders do in response?

Lead a discussion on "Carlos's Story" for 5 minutes.

SCRIPT

Make sure the following points are covered in the discussion:

- Carlos could file a complaint with the employer or a government agency.
- As allies, the other workers could
  - speak up when they see harassment happening.
  - talk to Pedro privately and tell him to stop harassing Carlos.
  - talk to Carlos privately and ask him how they can help.
- Allies should only object to Pedro's harassment if it's safe to do so. We'll talk later about other options for workers who don't feel safe enough to object.

Thank you for sharing your ideas for Carlos's story. Now, let's look at one possible set of responses.

Play "Strategies for Carlos's Story" (9:05-10:24).

SCRIPT

This scene shows several possible responses:

- Carlos tells Pedro and Beatriz that their jokes aren't funny. This works out well in the video, but remember that it's not Carlos's fault if he doesn't speak up. Only he can judge whether it's safe to say something.
- Several bystanders become allies by telling Pedro that his conduct is inappropriate and illegal.
- After Pedro leaves, Ana offers to report the harassment if Carlos wants her to. Reporting is important because it could prevent Pedro's sexual jokes from escalating into something even more serious.

Allies can play a critical role in responding to sexual harassment. If you witness harassment, you can help in these ways:

- Intervene by objecting or telling the harasser to stop.
- Intervene by making an excuse to get the harasser or the victim to leave.
- Make sure the victim isn't left alone with the harasser.
- Talk to the victim privately and ask if they're okay and how you can help.

But remember that it's the employer who's legally responsible for preventing and stopping sexual harassment.

OPTIONAL

Instead of listing options for allies, ask participants how a bystander can become an ally. If they miss anything in the list, add it yourself.

SCRIPT

Now let's talk about "Maria's Story." Bruno grabs Maria and sexually assaults her. It's not Maria's fault that she's unable to prevent the assault.

Let's discuss what you came up with. What can Maria and others do in response to the harassment?

Lead a discussion on "Maria's Story" for 5 minutes.

Make sure the following points are covered in the discussion:

- Maria could tell a coworker or supervisor about the assault.
- Maria could file a complaint with the employer or a government agency.
- Maria could report the assault to the police. Sexual assault is a crime.

SCRIPT

Thank you for sharing your ideas about Maria's situation. Let's look at some possible responses.

Play "Strategies for Maria's Story" (10:25-13:49).

This scene shows a new set of strategies:

- Maria goes to a community organization for help.
- Her husband and Delia support her by going with her.
- First, the organization's counselor, Sara, makes sure Maria is safe.
- Then Sara gives Maria information about her options, including reporting the assault to a government agency.
- Sara also offers counseling.

Later, Maria trains her peers about sexual harassment and assault at work, helping others by sharing information and resources with them.

SCRIPT

OPTIONAL ACTIVITY

Distribute or refer to the employer's policy or a summary in the language or languages employees understand.

During this final activity, ask participants to identify relevant sections in the employer's policy.

TOPIC 4

Worker Rights and Employer Responsibilities

(20 min.)

Preventing and stopping sexual harassment is the employer's responsibility, and the law requires some specific measures.

Every two years, janitorial employers have to provide training on sexual harassment to all workers and supervisors. That's why we're here today. The training should be conducted by a trainer in person, last at least two hours, and be interactive.

The employer also has to

- have a sexual harassment policy written in the language most workers understand and
- ensure that employees receive and understand it.

The policy has to include certain information to explain how the employer prevents and responds to sexual harassment or misconduct. Let's talk about what you can expect in a written policy and in practice.

Ask each of the following questions and have participants call out answers. Then make sure everyone understands the correct answer.

SCRIPT

1. **If your supervisor harassed you, where would you go to file a complaint with your employer?**

   A supervisor is someone with discretion and authority

   - to hire, transfer, promote, assign, reward, discipline, or discharge other employees, or effectively recommend any of these actions;
   - to act on the grievances of other employees or to effectively recommend action on grievances; or
   - to direct the victim's daily work activities.

   Your employer has to enable you to file a complaint with someone who isn't your direct supervisor. It could be a different supervisor, Human Resources (HR), an ombudsperson, or an Equal Employment Opportunity (EEO) officer. You might be able to file a complaint by calling a hotline.

   The employer has to accept complaints in writing, in person, and by phone.

2. **When an employer gets a complaint, what should they do?**

   The employer has to investigate thoroughly. Everyone involved – the reporting person, the accused person, and any witnesses – has to be able to present their side of the story and their evidence. The investigator must also review all relevant documents and reach a reasonable and fair conclusion based on the facts.

   If the complaint is anonymous, does the employer have to investigate? Yes.

   If the worker who complained can't name any witnesses, does the employer have to investigate? Yes. The worker doesn't necessarily need a neutral witness or documentary evidence to prove her claim.

   If the worker who complained also filed an earlier complaint that was unfounded, does the employer have to investigate? Yes.

SCRIPT

If the worker who complained changes her mind and tries to withdraw the complaint, does the employer still have to investigate? Yes.

3. **Will the person who takes the complaint keep it completely confidential?**

   No. That person has to report it to upper management or HR. And how would the employer investigate without saying anything about the complaint? Even if the investigator doesn't disclose the identity of the worker who complained, witnesses interviewed might guess who it is and tell others.

   The employer should keep the complaint as confidential as possible but can't promise complete confidentiality.

4. **Should a supervisor accused of sexual harassment investigate the complaint?**

   No, the investigation has to be fair and impartial.

   Should someone who reports to that supervisor investigate? No.

5. **When should the employer investigate? Should they wait a year?**

   No, the investigation has to start and end promptly.

6. **If the investigation exposes misconduct or harassment, what should the employer do?**

   The employer has to correct the conduct appropriately. The harasser could be counseled, disciplined, reassigned, demoted, or fired.

7. **Will the employer tell the worker who complained how the harasser was punished?**

   Not if the harasser works for the employer. The punishment could be obvious like transferring or firing the harasser, but the employer probably won't explain because of a legal duty of confidentiality to all employees.

SCRIPT

8. If you think the employer might not address the harassment appropriately, what can you do? Do you have to file a complaint with the employer?

You don't have to file a complaint with your employer or wait for the employer to investigate before going to an outside authority. Whether you're an employee or an independent contractor, you have the right to file a complaint with a government agency.

Within one year after the harassment, you can file with the California Department of Fair Employment and Housing (DFEH) or, within 300 days, with the federal Equal Employment Opportunity Commission (EEOC). (A complaint filed with one agency within 300 days is automatically filed with the other.)

When the agency receives your complaint, it may:

- investigate,
- help you and your employer reach a settlement (agree on a resolution of your claim),
- sue your employer in court, or
- give you permission to sue your employer in court.

9. How could your claim be resolved?

The employer is legally responsible, or **liable**, for damages caused by harassment

- if a manager or supervisor harasses someone, even if upper management doesn't know about it;
- if the employer didn't take immediate and effective steps to prevent and correct the harassment; or
- if a worker or third party harasses someone and the court finds that the employer knew about it (or should have known) and didn't do anything to stop it.

SCRIPT

The employer may settle your claim to avoid a lawsuit. The employer could agree to change its behavior in the future, pay you compensation, and even rehire you.

If you win in court, the court could order the employer to train its employees better; change its policies or procedures; rehire you; and pay economic, non-economic, and possibly even punitive damages.

In addition, a court could find the harasser **personally liable** and order the harasser to pay compensation and other costs out of their own pocket. In the videos we watched, Roberto, Pedro, and Bruno could be found personally liable.

10. What might a worker who's considering filing a complaint or helping in an investigation worry about most?

Often, workers worry about retaliation by the employer.

It's illegal for an employer to retaliate against a worker, or punish him or her, for reporting harassment or participating in an investigation. The employer can't legally

- fire, suspend, or discipline the worker;
- cut their pay, benefits, or overtime; or
- threaten the worker or their family with deportation.

Also, in some circumstances, the employer can't

- change the worker's assignment to less desirable tasks or shifts or
- prevent the worker from getting another job.

SCRIPT

Some employers retaliate even though it's against the law. If you believe your employer or a supervisor retaliated against you for complaining or being interviewed about harassment, you can file a retaliation complaint with your employer, with a government agency, or in court.

Only the victim can judge whether reporting harassment or retaliation will make them safer than not reporting it, or whether reporting is worth some risk. The decision to file a complaint should be made by the victim. If you're faced with this choice, you may want to ask for help from family, friends, coworkers, community groups, and/or your union if you have one.

Refer to "Sexual Harassment at Work Is Illegal."

This handout summarizes the rights of workers and the responsibilities of employers. Please keep it for reference.

SCRIPT

OPTIONAL ACTIVITIES

(1) If you obtained any contact information for local resources, please refer to it now.

(2) Review participants' reactions to "How Sexual Harassment Affects Workers" from the beginning of the training. Then lead a discussion of the following questions:

- How would you describe the kind of work environment you want?
- How can your work environment be improved?

(3) To get feedback that can help you improve your teaching, distribute evaluation forms and ask participants to fill them out. Collect the completed evaluations as participants leave.

TOPIC 5

Conclusion

(5 min.)

I hope you've learned a lot about sexual harassment and ensuring a safe and respectful workplace.

Refer to "Resources for Addressing Sexual Harassment and Assault."

This handout can help you locate services for victims or survivors of sexual harassment and assault. Many resources are free, and organizations won't ask about your immigration status.

At the beginning of the training, we heard from some survivors about the impact that sexual harassment had on them. We're going to hear from them again.

Play "Messages from Survivors" (13:54-14:51).

OPTIONAL:
Lead a discussion for 1-2 minutes.

These survivors are now leaders working to end sexual harassment and assault in the janitorial industry. If you want to join this effort, please talk to me.

Thank you for coming to the training and sharing your thoughts.

SUPPLEMENTS

Legal Supplement

- Federal and California Civil Rights Laws Compared
- Legal References: Relevant Provisions of California Laws

Handouts

- "What Is Sexual Harassment?"
- "Sexual Harassment at Work Is Illegal"
- "Resources for Addressing Sexual Harassment and Assault"

Visual Aids

- Enlarged illustrations from the handout "What Is Sexual Harassment?"

Evaluation Form

SUPPLEMENTS

Legal Supplement

Federal and California Civil Rights Laws Compared

California law provides broader protection against harassment than federal law.

Title VII of the Federal Civil Rights Act of 1964	California Fair Employment and Housing Act
Employer not automatically liable; showing of negligence required	Strict liability, i.e. employer automatically liable for harassment by managers and supervisors
Employer not liable if it exercised reasonable care and employee unreasonably failed to take advantage of opportunities to avoid harm	Employer has no defense if harasser is a manager or supervisor
Only employers with 15+ employees liable	Covers all employers, including sole proprietors
Doesn't cover independent contractors, volunteers, or unpaid interns	Covers independent contractors, volunteers, and unpaid interns

Under California Government Code section 12940(k), an employer must "take all reasonable steps necessary to prevent discrimination and harassment." What steps are considered reasonable depends on many factors, including the nature of the business, its budget, the number of employees, and other facts of the case.

SUPPLEMENTS

Legal References:
Relevant Provisions of California Laws

California Government Code § 12940

(j)(1) [It is an unlawful employment practice] for an employer, labor organization, employment agency, apprenticeship training program or any training program leading to employment, or any other person, because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status, to harass an employee, an applicant, an unpaid intern or volunteer, or a person providing services pursuant to a contract.

(j)(4)(A) For purposes of this subdivision only, "employer" means any person regularly employing one or more persons or regularly receiving the services of one or more persons providing services pursuant to a contract, or any person acting as an agent of an employer, directly or indirectly, the state, or any political or civil subdivision of the state, and cities.

(j)(4)(C) For purposes of this subdivision, "harassment" because of sex includes sexual harassment, gender harassment, and harassment based on pregnancy, childbirth, or related medical conditions. Sexually harassing conduct need not be motivated by sexual desire.

(k) [It is an unlawful employment practice] for an employer, labor organization, employment agency, apprenticeship training program, or any training program leading to employment, to fail to take all reasonable steps necessary to prevent discrimination and harassment from occurring.

California Government Code § 12950.1

(i)(2) For purposes of this section, "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.

Title 2 of the California Code of Regulations

§ 11023. Harassment and Discrimination Prevention and Correction.

§ 11024. Sexual Harassment Training and Education.

Title 8 of the California Code of Regulations

§ 13820-13822, Sexual Violence and Harassment Prevention Training for Property Service Workers