

## **Abusive Conduct**

Abusive conduct is conduct in the workplace that a reasonable person would find hostile, offensive and unrelated to an employer's legitimate business interests, including:

- 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.
- The gratuitous sabotage or undermining of a person's work performance.
- A single act shall not constitute abusive conduct, unless especially severe and egregious.

## **No Independent Cause of Action**

Abusive conduct: "bullying" in and of itself is not a violation of the Fair Employment and Housing Act unless it can be shown to have been substantially motivated by a protected characteristic.

Possible Ralph Act claim if violence or the threat of violence is involved. The Ralph Act states that it is a civil right for a person to be free of violence or its threat against the person or property based on a wide range of personal characteristics, including sexual orientation or the perception of sexual orientation. The Ralph Act (and the Unruh Act) is enforced by the Department of Fair Employment and Housing. As such, DFEH does have jurisdiction to investigate and litigate.

The Ralph Act provides for civil penalties up to \$25,000 in fines for perpetrators of a hate crime and remedies for the victims of hate crimes of three times the actual damages, but no less than \$1,000, plus punitive damages and attorney's fees.

Possible non-FEHA claims (civil claims): assault, battery, or intentional infliction of emotional distress.