

California Sexual Harassment Laws

MODULE 2



Two Types of Sexual Harassment

Quid Pro Quo

- ▶ The essence of a quid pro quo sexual harassment claim is that a supervisor relies on his or her apparent or actual authority to extort sexual favors from an employee.
- ▶ The threat may be expressed or implied.

Hostile Work Environment

The courts have recognized three varieties of hostile work environment sexual harassment:

- ▶ Hostile Work Environment – Conduct Directed at Claimant.
- ▶ Hostile Work Environment – Conduct Directed at Others.
- ▶ Hostile Work Environment – Widespread Sexual Favoritism.



HARASSING CONDUCT EXPLAINED

Harassing conduct includes unwanted sexual advances that can be:

- ▶ Verbal
- ▶ Visual
- ▶ Physical





Hostile Work Environment

Verbal

- ▶ Foul or obscene language
- ▶ Derogatory comments
- ▶ Explicit discussions about sexual activities
- ▶ Comments about other people's physical attributes

Visual

- ▶ Leering
- ▶ Staring
- ▶ Making sexual gestures
- ▶ Displaying sexually explicit objects, pictures, cartoons, graffiti, or posters
- ▶ Sending graphic emails, text messages, or jokes

Physical

- ▶ Kissing
- ▶ Hugging
- ▶ Grabbing
- ▶ Impeding or blocking movement
- ▶ Assault

Severe or Pervasive

To be actionable, the unwanted behavior must be “severe or pervasive” and alter the conditions of employment to the extent that it creates a hostile or abusive work environment.

Considerations

- ▶ The nature of the conduct.
- ▶ The frequency of the conduct.
- ▶ The period of time over which it occurred.
- ▶ Whether the conduct was physically threatening or humiliating.
- ▶ The extent to which the conduct unreasonably interfered with an employee's work performance.

