

Contractors and Employers



Preventing Sexual Harassment

Be smart about
**Preventing
Sexual
Harassment**

Tradeswomen, Inc.

www.tradeswomen.org • 510-891-8773 x313
2485 West 14th St. • Oakland CA 94607

Tradeswomen, Inc. has been a support and advocacy organization for women who work in the trades since 1979. With workshops, conferences and policy initiatives, Tradeswomen, Inc. strives to help women in blue-collar jobs and to increase and maintain the numbers of women in non-traditional careers.



Resources

Women in Non-Traditional Employment Roles (WINTER)

www.winterbuild.org • 562-570-3764
P.O. Box 90511 • Long Beach, CA 90809

Dedicated to recruiting, training, and placing women in apprenticeships and non-traditional jobs, WINTER operates a charter school to help women complete their high school credentials, holds monthly orientations about the trades, and is designated a technical assistance provider by the Office of Apprenticeship Training, Employer and Labor Services (OATELS).

**California Dept. of Fair Employment and Housing

www.dfeh.ca.gov • 800-884-1684
Can provide posters, brochures and more information about the law.

M “She asked for it, by the way she dressed (or behaved).”

F The law states that a person’s dress or behavior never justifies sexual harassment. When necessary, employers should deal with a complainant’s inappropriate dress or behavior separately from any allegations of sexual harassment.

M “We were just kidding, and [the other women] didn’t mind.”

F The law states that the intent of the alleged harasser is irrelevant, and the fact that others were not offended may be irrelevant as well. What is relevant is that the behavior was repeated and known to be offensive and unwelcome to the complainant.

Myths and Facts about sexual harassment

These common myths about sexual harassment are followed by facts that can be used to counter them, to help educate your employees and supervisors:

M “Construction [mechanics, trucking, firefighting, etc] is a man’s world, and women have to get used to rough language and behavior.”

F Tradeswomen often cite sexual harassment and discrimination as reasons for why they leave the trades, and young women cite fear of sexual harassment as a reason for not choosing a trades career. But construction and the skilled trades are no longer a “man’s world,” and inappropriate jobsite behavior does not increase productivity or benefit any workers or employers—quite the opposite. Anti-discrimination laws make clear that everyone has the right to come to work without being made to feel offended or uncomfortable because of who they are.

M “Some women come into the trades just looking to get rich from an easy lawsuit.”

F Lawsuits are long, stressful and rarely lucrative for those who file them. Most people just want the offending behavior to stop. A complainant must first prove he/she has exhausted all other employer/union procedures or remedies before filing a state, federal or civil lawsuit *as a last resort*. An employer with clear policies and procedures who nips problems in the bud can easily avoid legal action.

We’ve come a long way toward opening up our skilled trades careers to more people of color and women, who, in turn, are helping address the skilled worker shortage in our industries. As part of this effort, we need to keep working together to further educate all trades workers, foremen, supervisors and union personnel, in order to make sexual harassment at our workplaces a thing of the past.



Preventing Sexual Harassment

What is sexual harassment...

California law defines sexual harassment as “unwanted sexual advances, or visual, verbal or physical conduct of a sexual nature.”* This covers many forms of offensive behavior, and includes same-sex harassment. The two main types of harassment are:

■ QUID PRO QUO:

Unwanted sexual advances, offering employment benefits in exchange for sexual favors, and/or making or threatening reprisals after a negative response to sexual advances.

In this type, *the harasser must be a supervisor, and the employer is automatically liable for the harassment.*

■ HOSTILE WORK ENVIRONMENT:

Visual conduct: sexual gestures, leering, displaying sexually suggestive objects or pictures, cartoons or posters.

Verbal conduct: derogatory comments, epithets, slurs or jokes; sexual advances or propositions; graphic commentaries about a person’s body, describing a person with sexually degrading words, suggestive or obscene letters, notes or invitations.

Physical conduct: touching, assault, impeding or blocking movements.

In this type, the harasser can be a supervisor, co-worker or third party, and there can be one or many harassers. The harassment must be *severe* (as in assault or touching) or *pervasive* (a pattern of behavior or conditions, as in repeated name-calling or suggestive pictures not removed). The person affected must make it clear that the harassing behavior is *unwelcome*. If the harasser is a co-worker or third party, *the employer is liable only if he/she “knew or should have known” about the harassment.*



Preventing sexual harassment...

California law requires employers to *post in the workplace a poster from the Department of Fair Employment and Housing,** and to distribute its brochure (or an equivalent document) to all employees informing them on sexual harassment law.*

In addition, a good sexual harassment prevention program includes:

- **A clear written policy** stating that sexual harassment in any form will not be tolerated in the workplace, and outlining the company's complaint procedure.
- **Training of supervisory personnel** to understand the policy and their key role to educate rank-and-file employees. Supervisors should be encouraged to *set a clear and positive tone of mutual respect for all co-workers, regardless of differences in*

gender, race, etc. Warning: Punitive statements that single out a group (such as "You men can be fired for swearing now that we have a woman on the job") foster resentment and can often lead to the very harassment you want to avoid.

- **Follow your complaint procedure** as soon as harassment is known or alleged:
 - **Fully inform complainant of his/her rights** and your obligation to secure those rights.
 - **Fully and effectively investigate** (it must be immediate, thorough, objective and complete). Interview all those with relevant information, make a determination, and communicate it to the complainant, the alleged harasser and all appropriate others.
 - **If proven, take prompt and effective remedial action:** first, against the harasser and communicated to the complainant; second, to prevent any further harassment; third, to remedy the complainant's loss, if any.
 - **Ensure there is no retaliation against the complainant.** *Retaliation for complaining about harassment is illegal, even if the harassment itself cannot be proven.*

Sexual harassment is not only against the law, it's bad for business. It hurts your bottom line, employee morale, and the entire industry. Employers are required by law to "take all reasonable steps to prevent discrimination and harassment from occurring."* An employer who has failed to take such preventive measures can be held liable if harassment occurs.

By taking a few simple steps, you can help prevent sexual harassment on your jobsites and shop floors. If it still occurs, you can take swift corrective action to end the problem and minimize your liability.

* Sexual harassment in the workplace violates the provisions of the California Fair Employment and Housing Act, specifically Govt. Code Sections 12940(a), (h), and (i).