

Mastery Test--Common
Preventing Workplace Harassment
California Supervisory Edition

1. An individual filing a sexual harassment complaint must personally be the intended target of the behavior?

A. True

Incorrect. The individual filing a complaint may be a third party who is witness to, overhears, or otherwise observes offensive sexual conduct. It may also be someone who is negatively affected by a supervisor's favoritism toward co-workers with whom he or she is involved in consensual affairs – as decided in the CA Supreme Court case of *White vs. the Department of Corrections*. Your score is 0%.

B. False

Correct. The individual filing a complaint may be a third party who is witness to, overhears, or otherwise observes offensive sexual conduct. It may also be someone who is negatively affected by a supervisor's favoritism toward co-workers with whom he or she is involved in consensual affairs – as decided in the CA Supreme Court case of *White vs. the Department of Corrections*. Your score is 0%.

2. It is unlawful to harass a woman because she frequently takes time off due to pregnancy complications.

A. True

Correct. Title VII of the Civil Rights Act covers pregnancy under the protected class “sex,” making it unlawful to harass or discriminate based on pregnancy, childbirth or issues related to pregnancy or childbirth. Your score is 50%.

B. False

Incorrect. Title VII of the Civil Rights Act covers pregnancy under the protected class “sex,” making it unlawful to harass or discriminate based on pregnancy, childbirth or issues related to pregnancy or childbirth. Your score is 50%.

3. Simon is the life of the cafeteria during meal breaks and loves to tell jokes and stories to his co-workers, including some that are sexually graphic and some that ridicule people of particular races and religions. He does not intend to offend anyone with his jokes so this behavior is not at risk for being illegal harassment.

A. True

Incorrect. Simon's behavior could be offensive to one or more of his co-workers, or others within hearing, and could result in a complaint of harassment. This type of behavior is unacceptable. It contributes to an environment in which offensive, unwelcome conduct may be pervasive. Intent is not relevant in harassment situations; it is the impact of the behavior that counts. Your score is 33%.

B. False

Correct. Simon's behavior could be offensive to one or more of his co-workers, or others within hearing, and could result in a complaint of harassment. This type of behavior is unacceptable. It contributes to an environment in which offensive, unwelcome conduct may be pervasive. Intent is not relevant in harassment situations; it is the impact of the behavior that counts. Your score is 33%.

4. If a supervisor makes an employee's promotion conditional on sexual favors, this type of harassment is known as hostile environment sexual harassment.

A. True

Incorrect. When a hire, promotion, raise, desirable work assignment, or other benefit of employment is made conditional on granting sexual favors it is known as quid pro quo (literally something for something) sexual harassment. Your score is 25%.

B. False

Correct. The type of harassment described is known as quid pro quo (literally something for something) sexual harassment. Your score is 25%.

5. Under the FEHA, sabotaging an employee's work area because he or she is gay is likely illegal harassment.

A. True

Correct. Intentionally interfering with a person's ability to perform his or her job based on that employee's sexual orientation is a recognized type of illegal harassing conduct under the FEHA. Your score is 40%.

B. False

Incorrect. Intentionally interfering with a person's ability to perform his or her job based on that employee's sexual orientation is a recognized type of illegal harassing conduct under the FEHA. Your score is 40%.

6. Laws prohibiting harassment provide protection against retaliation, but only for those who were able to support a previous claim of harassment or discrimination.

A. True

Incorrect. Laws prohibiting harassment provide protection against retaliation for anyone making a complaint or participating in an investigation of harassment or other discrimination. Whether or not the original claim was found to have merit is irrelevant. Actions that may discourage the filing of a complaint are likely to be unlawful retaliation. Your score is 33%.

B. False

Correct. Laws prohibiting harassment provide protection against retaliation for anyone making a complaint or participating in an investigation of harassment or other discrimination. Whether or not the original claim was found to have merit is irrelevant. Actions that may discourage the filing of a complaint are likely to be unlawful retaliation. Your score is 33%.

7. One of the best ways to stop sexual harassment is to simply ignore the harasser.

A. True

No. Ignoring the harasser generally does not cause the behavior to stop. The best action to stop the behavior is to report it. Your score is 28%.

B. False

Correct. The first step in stopping the harassment may be asking the harasser to stop, if the person who is feeling harassed is comfortable

doing this. But the best action to stop the behavior is to report it. Your score is 28%.

8. Dan, an employee in the receiving department, frequently verbally abuses Jessica, another employee in the receiving department, based on the fact that Jessica is a woman. Dan is openly hostile and derisive regarding females in general. However, this is not considered harassment because Dan is not Jessica's supervisor.

A. True

Incorrect. Harassment can occur between employees of equal rank and among others not in a direct reporting relationship. In this situation, Dan's behavior is likely contributing to a hostile work environment for Jessica based on the protected class of sex. Your score is 25%.

B. False

Correct. Harassment can occur between employees of equal rank and among others not in a direct reporting relationship. In this situation, Dan's behavior is likely contributing to a hostile work environment for Jessica based on the protected class of sex. Your score is 25%.

9. Illegal harassment is a type of discrimination.

A. True

Correct. Harassment is a type of discrimination and therefore prohibited under the same employment laws that protect against discrimination. Your score is 33%.

B. False

Incorrect. Harassment is a type of discrimination and therefore prohibited under the same employment laws that protect against discrimination. Your score is 33%.

10. Rosa worked in the sales department where she was repeatedly harassed by one of the company's biggest clients. Rosa reported this behavior to LuAnn, her manager, but LuAnn asked her to put up with the behavior rather than upset the client. She even gave Rosa hints about how to congenially side-step the unwanted touching and sexual comments. Rosa quit the position when the behavior grew more threatening. Since this

client is important to the employer, Rosa should have taken the advice of her manager and learned to deal with the behavior in order to limit the harm it may have done to her work situation.

A. True

Incorrect. All employees are entitled to work in an environment free of harassment. The manager is required to take steps to end the behavior and protect Rosa from harm immediately upon becoming aware of the client's behavior. Your score is 30%.

B. False

Correct. All employees are entitled to work in an environment free of harassment. An employee is never required to tolerate this type of conduct. Rather, her manager is required to take steps to end the behavior and protect Rosa from harm immediately upon becoming aware of the client's actions. Your score is 30%.

11. (*The Employer*) has policies prohibiting harassment and procedures for filing a harassment complaint.

A. True

Correct. (*The Employer*) has policies prohibiting harassment and procedures for filing a harassment complaint. Your score is 36%.

B. False

Incorrect. (*The Employer*) has policies prohibiting harassment and procedures for filing a harassment complaint. Your score is 36%.

12. Because of Becky's back injury, she needs to stand up and stretch for a few minutes every hour while at work. Her supervisor allows her to do this, but often ridicules her in front of other co-workers and complains that she is losing valuable working time when she takes her stretch breaks. On occasion, when she stands to stretch, he loudly announces to the office that Becky is taking her "slacker time." This causes the employee a great deal of embarrassment and, as a result, she frequently misses work due to stress. Since Becky is still able to perform her work duties, she cannot claim harassment based on a disability.

A. True

Incorrect. That Becky is able to work with an accommodation does not mean she does not have a disability. This situation is likely a case of disability-related harassment under the ADA and the FEHA. The supervisor is creating a hostile work environment for Becky by ridiculing her need for an accommodation. Your score is 33%.

B. False

Correct. That Becky is able to work with an accommodation does not mean she does not have a disability. This situation is likely a case of disability-related harassment under the ADA and the FEHA. Your score is 33%.

13. Conduct of a sexual nature must be severely or pervasively offensive as perceived by the standard of a "reasonable person" in the position of the person subject to the conduct in order to be judged as hostile environment sexual harassment.

A. True

Correct. The "Reasonable Person" Standard is what the courts use to determine whether objectionable behavior of a sexual nature creates a hostile working environment. This is not the case in quid pro quo situations. Your score is 38%.

B. False

Incorrect. The "Reasonable Person" Standard is what the courts use to determine whether objectionable behavior of a sexual nature creates a hostile working environment. This is not the case in quid pro quo situations. Your score is 38%.

14. In California, the employer is always liable for sexual harassment by a manager, regardless of whether or not the employer knew of the harassment, or whether or not the employee reported it.

A. True

Correct. Under California law, an employer cannot avoid liability for sexual harassment by a manager. However, if the employer took steps to prevent harassment but the employee failed to use the resources available to limit harm, such as following the employer's policy and complaint procedure, the employer's damages may be reduced. This is known as the doctrine of avoidable consequences. Your score is 42%.

B. False

Incorrect. Under California law, the employer is strictly liable when a manager is guilty of sexual harassment. However, if the employee failed to use the resources available to limit harm, such as following the employer's policy and complaint procedure, the employer's damages may be reduced. This is known as the doctrine of avoidable consequences. Your score is 42%.

15. If a vendor or client harasses an employee, (*The Employer*) could be held liable for the sexually harassing behavior.

A. True

Yes, particularly if (*The Employer*) is made aware of the problem and does not do something to stop it. Your score is 46%.

B. False

No. (*The Employer*) may be held liable if a vendor or client harasses an employee, particularly if management is aware of the harassment and does nothing to stop it. Your score is 46%.

16. When multiple generations work together, it is not unusual to hear some younger workers mocking or questioning the value of those who are nearing retirement. This is ok, but only as long as no one complains.

A. True

Incorrect. The absence of a complaint does not mean the behavior is welcome. This behavior is inappropriate at (*The Employer*) and it could contribute to creating a hostile environment based on age over 40. Your score is 43%.

B. False

Correct. This behavior is inappropriate at (*The Employer*) and it could contribute to creating a hostile environment based on age over 40. Your score is 43%.

17. A manager becomes aware of harassing treatment targeting an African American staff member in his department. Those involved are also members of his department. The manager should ask the employee if he or she wishes to file a complaint and promise that the complaint will be kept totally confidential.

A. True

Incorrect. The manager must not wait for a complaint in order to respond to harassing situations of which he or she is aware. Steps must be taken immediately to end the harassment. Also, promising confidentiality must be avoided because an investigation will very likely need to take place and individuals will need to be interviewed. Your score is 41%.

B. False

Correct. The manager must not wait for a complaint in order to respond to harassing situations of which he or she is aware. Steps must be taken immediately to end the harassment. Also, promising confidentiality must be avoided because an investigation will very likely need to take place and individuals will need to be interviewed. Your score is 41%.

18. Sexual harassment of an employee or co-worker can take place on or off the employer's property, at employee-sponsored or private events, and in person or by electronic means.

A. True

Correct. Sexual harassment of an employee by a manager or a co-worker does not need to be limited to the employer's property, nor even face to face. It can take place off site or through email, telephone, text, or social media. Your score is 44%.

B. False

Incorrect. Sexual harassment of an employee by a manager or a co-worker does not need to be limited to the employer's property, nor even face to face. It can take place off site or through email, telephone, text, or social media. Your score is 44%.

19. In order for retaliation to be considered unlawful, it must involve a termination, a demotion, or some other monetary loss to the employee.

A. True

Incorrect. The U.S. Supreme Court has stated that any action against an employee that has the effect of discouraging employees from filing complaints of discrimination constitutes retaliation. Your score is 42%.

B. False

Correct. The U.S. Supreme Court has stated that any action against an employee that has the effect of discouraging employees from filing complaints of discrimination constitutes retaliation. Your score is 42%.

20. Under California law, a manager cannot be held personally liable for harassing behaviors.

A. True

Incorrect. California law has provided that individual employees at all levels within an organization can be held personally liable for any sexual harassment in which they engage. Your score is 40%.

B. False

Correct. California law has provided that individual employees at all levels within an organization can be held personally liable for any sexual harassment in which they engage. Your score is 40%.