

**September 8, 2017**

# **EPL – KEEPING THINGS FROM GOING SOUTH**

**Presented by: Jennifer Brown Shaw, Esq.**



© 2017 Shaw Law Group, PC. All Rights Reserved.

425 University Avenue, Suite 200  
Sacramento, California 95825  
Telephone: 916.640.2240  
Facsimile: 916.640.2241

<http://shawlawgroup.com>

# WHY ARE WE HERE?

# KEY COMPLIANCE AREAS

---

- ✦ EEO
- ✦ Wage-hour
- ✦ Hiring, discipline and termination practices

# EXPECTATIONS OF LEADERS

---

- ✦ Know your staff
- ✦ Be fair and consistent
- ✦ Do the right thing!

# EEO COMPLIANCE

# THE STANDARD FOR WORKPLACE CONDUCT: RESPECT AND PROFESSIONALISM

---

*Every employee is entitled to be treated with dignity and respect, even if the law does not require it.*

# DISCRIMINATION, HARASSMENT, AND RETALIATION

---

- ✦ The elements
- ✦ Policy vs. law
- ✦ “True North” = prevention!

# PROTECTED CATEGORIES UNDER THE LAW

---

- ✦ Age
- ✦ Breastfeeding
- ✦ Color
- ✦ Disability
- ✦ Gender identity
- ✦ Genetic characteristics
- ✦ Marital status
- ✦ Medical condition
- ✦ Ancestry
- ✦ National origin
- ✦ Political affiliation
- ✦ Pregnancy
- ✦ Childbirth
- ✦ Race
- ✦ Religion
- ✦ Sex
- ✦ Sexual orientation
- ✦ Veteran status



# AVOIDING “ABUSIVE CONDUCT”

---

Defined under the law as:

1. “Conduct of an employer or employee in the workplace”; and
2. Committed with “malice” (“hatred” or “ill will”); and
3. “That a reasonable person would find hostile, offensive, and unrelated to an employer’s legitimate business interests”

# AVOIDING “ABUSIVE CONDUCT” (cont.)

---

## Examples:

- ✦ “Verbal or physical conduct that is threatening, intimidating, or humiliating” (derogatory remarks, insults, and epithets)
- ✦ “Repeated infliction of verbal abuse”
- ✦ “Gratuitous sabotage or undermining of a person’s work performance”

# SO WHAT?

---

- ✦ Morale
- ✦ Retention
- ✦ Productivity
- ✦ Leaves of absence
- ✦ Sick time
- ✦ What else?

# THE INTERNAL COMPLAINT PROCESS

---

- ✦ Reporting options
- ✦ The difference between “need to know” and absolute confidentiality
- ✦ No chain-of-command or “off-the-record” complaints

# **WHY DON'T MOST EMPLOYEES COMPLAIN?**

# REQUIRED “SUPERVISOR” ACTIONS

---

- ✦ Remain fair and impartial
- ✦ Get the basic facts
- ✦ Report the basic facts immediately (15 minutes would be great!)
- ✦ Exercise discretion
- ✦ When in doubt, report

# 10 THINGS TO KEEP IN MIND

---

1. Mutual respect
2. “Platinum Rule” (not the “Golden Rule”)
3. Understand your EEO policies
4. Intent is not required for an EEO policy violation
5. The definition of “workplace”
6. No such thing as “off-the-record” complaints
7. “Get-out-of-your-chair”
8. Managing is not retaliation
9. Everything you need to know you learned in kindergarten
10. Own it!

# WAGE-HOUR COMPLIANCE



# REMEMBER...

---

- ✦ Know your universe
- ✦ Misclassification issues
- ✦ Independent contractors are extinct
- ✦ Beware of non-exempt employees
- ✦ Rest breaks and meal periods are sacred
- ✦ Pay for all hours worked
- ✦ The cost of doing business...
- ✦ Vacation/sick policies
- ✦ Follow recordkeeping and other requirements
- ✦ Assess your risk!

# **THE MOST DANGEROUS DECISIONS**

# HIRING

---

- ✧ Advertising
- ✧ Interviews
- ✧ Selection

# PERFORMANCE MANAGEMENT

---

- ✦ All about performance (not personality)
- ✦ Tell the truth
- ✦ Partner with Human Resources

# THE END...

---

- ✦ Never terminate without consultation
- ✦ You must have a legitimate reason for every decision you make

**QUESTIONS?**

# THANK YOU.

---



425 University Avenue, Suite 200  
Sacramento, California 95825  
Telephone: 916.640.2240  
Facsimile: 916.640.2241

71 Stevenson Street, 4th Floor  
San Francisco, California 94105  
Telephone: 415.983.5960  
Facsimile: 415.983.5963

Email: [info@shawlawgroup.com](mailto:info@shawlawgroup.com)  
Website: <http://shawlawgroup.com>

*Like Us!*



*Follow Us!*