

WEBINAR | FEBRUARY 2024

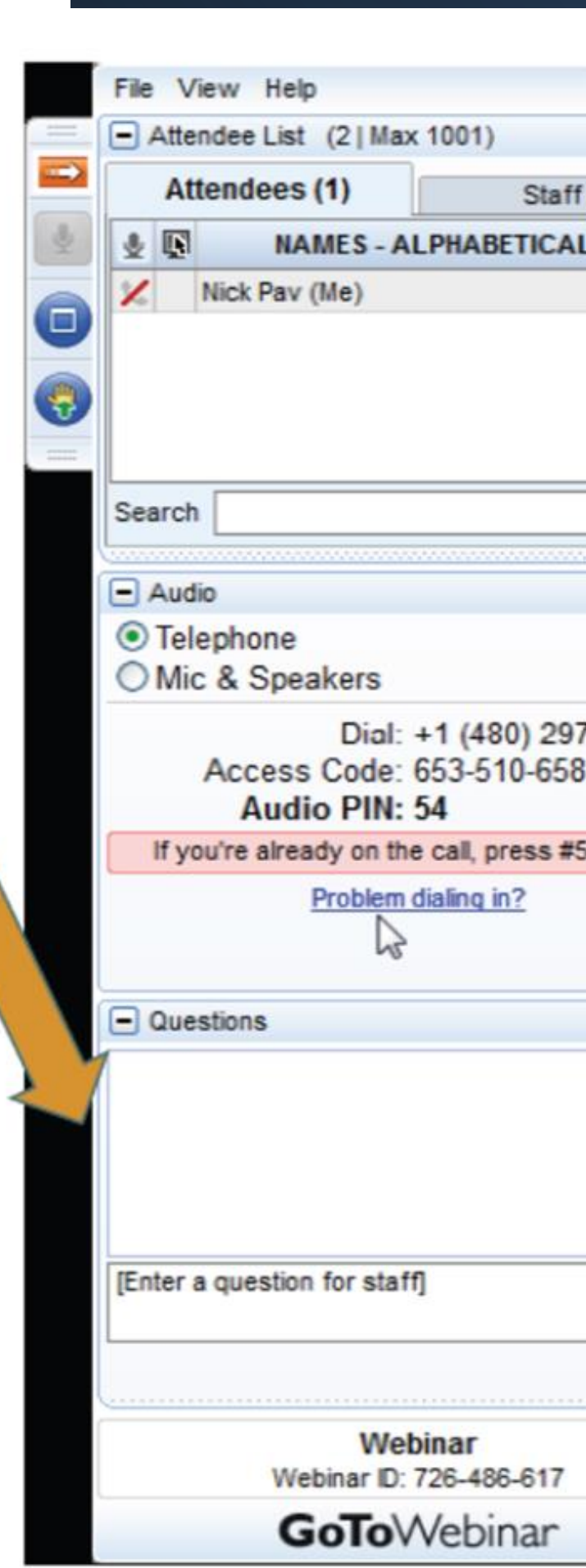
Youth at Work: Rights and Remedies

ALLIANCE
for CHILDREN'S
RIGHTS



Logistics

- Webinar resources, including recording and supplemental materials, will be posted at <https://allianceforchildrensrights.org/resources/>
- All attendees are muted during webinar.
- Please submit questions using the “Questions” function on your GotoWebinar dashboard.



The screenshot displays the GotoWebinar interface. At the top, there is a menu with 'File', 'View', and 'Help'. Below this is the 'Attendee List (2 | Max 1001)' section, which includes a tab for 'Attendees (1)' and a 'Staff' tab. The attendees list shows 'Nick Pav (Me)'. Below the attendees list is a search bar. The 'Audio' section is visible, with 'Telephone' selected and 'Mic & Speakers' unselected. The dialing information is: 'Dial: +1 (480) 297', 'Access Code: 653-510-658', and 'Audio PIN: 54'. A red banner below the audio settings says 'If you're already on the call, press #54'. There is a link for 'Problem dialing in?'. The 'Questions' section is at the bottom, with a text input field containing '[Enter a question for staff]'. At the very bottom, it says 'Webinar Webinar ID: 726-486-617' and the 'GoToWebinar' logo. A large orange arrow points from the left towards the 'Questions' section.



YOUTH RIGHTS IN THE WORKPLACE

*Alliance for Children's Rights
Policy Webinar Series*

**Beth Meyerhoff (she/her)
Rachel Stein (she/her)**



This presentation has been prepared by Public Counsel for informational purposes only. The material discussed during this presentation should not be construed as legal advice or a legal opinion on any specific facts or circumstances. The content is intended for general information purposes only, and you are urged to consult a lawyer concerning your own situation and any specific legal questions you may have.



ABOUT WGR

Workplace Rights

Defending the rights of low-wage workers to a safe and fair work environment free from exploitation, discrimination, and harassment.

Direct Services

Free counsel and advice; advocacy and intervention with employers and schools; representation in administrative processes and litigation.

Advocacy

Defending the rights of low-wage workers to a safe and fair work environment free from exploitation, discrimination, and harassment.

Education & Outreach

Empowering workers and students with information about their rights.



AGENDA



- Wage and Hour
- Work Permit
- Anti-Discrimination Protections
- Sexual Harassment in the Workplace
- Enforcing Workplace Rights



Wage and Hour



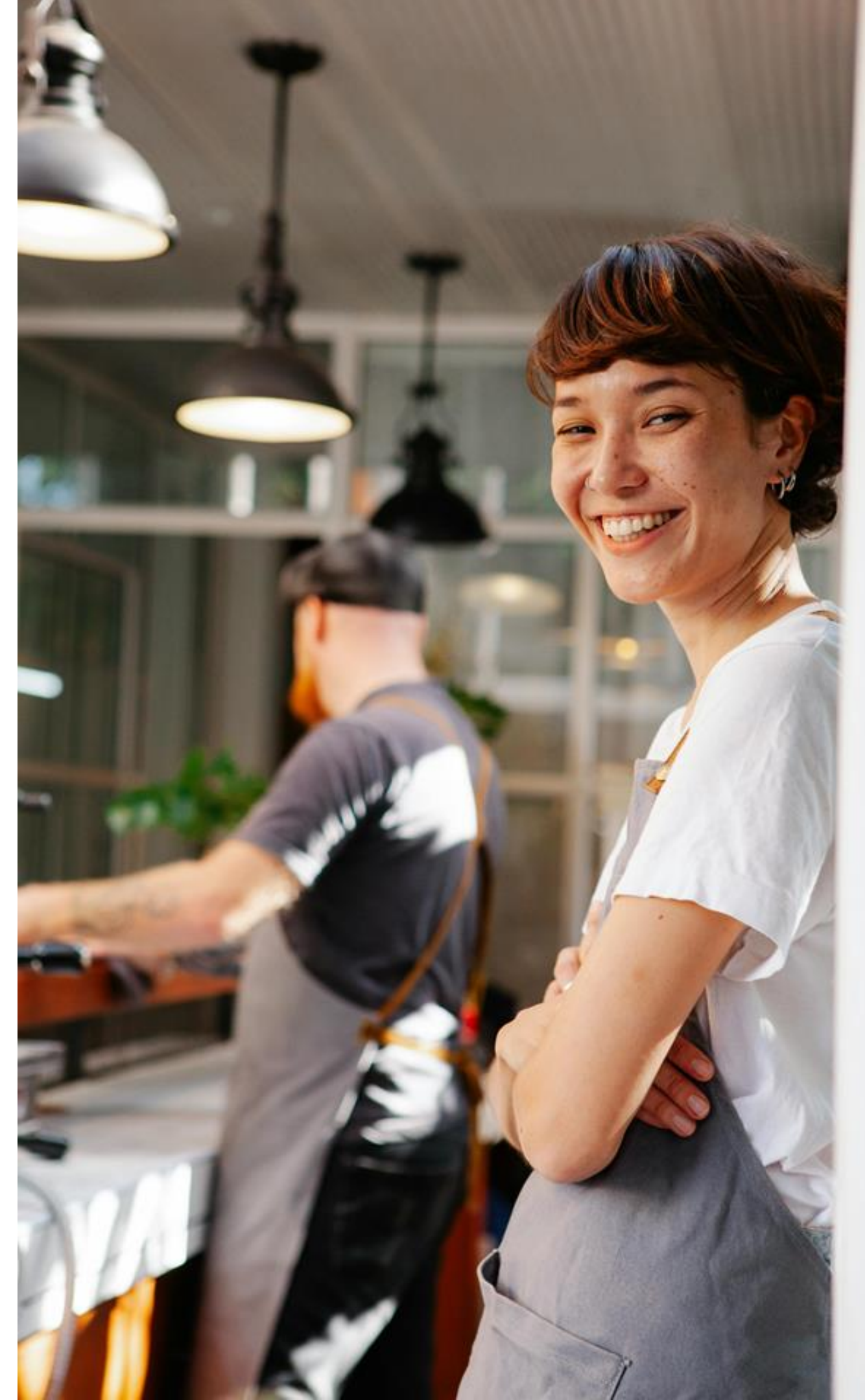
Wage and Hour

Minimum Wage

- Almost all employees have the right to minimum wage
- You cannot agree to be paid less than minimum wage
- If you work for your spouse, parent or child, you do not have the right to minimum wage

Overtime and Double-time

- **Overtime:** 1.5 x your Regular rate
 - Daily and Weekly
 - 7th Consecutive Workday
- **Double time:** 2x your Regular rate
 - Daily
 - 7th Consecutive Workday



Wage and Hour

Right to rest breaks

- One paid ten-minute break every four hours
- Does not apply if employee works less than 3.5 hours/day
- 3.5 hours worked = 1 rest break
- 6 hours worked = 2 rest breaks
- 10 hours worked = 3 rest breaks



Wage and Hour

Right to meal breaks

- One unpaid lunch break if employees work more than 5 hours/day, and a second meal break if they work more than 10 hours/day
- May be waived if the work period is no more than 6 hours if both employer and employee agree



Right to Paid Sick Leave

Starting January 1, 2024:
5 days or 40 hours of paid sick leave



Wage and Hour

Holidays and Vacations

Employers are not required to provide paid time off for holidays.

- But may be required to accommodate religious holidays.

Employers are not required to provide vacation.

- If they do, an employer must pay wages for earned but unused paid leave when an employee leaves a job.



Wage and Hour

- Right to a safe workplace

Report a hazard to Cal/OSHA by calling or going in person to your local Cal/OSHA office



SCENARIO: Wage & Hour

Chris (they/them) works at a retail store during the summer for \$20 per hour. Chris usually works four to five days a week, for around 32 hours per week.

One week, Chris was asked to pick up some extra shifts because a co-worker was sick. Chris agreed to cover the shifts, and ended up working 8 hours on Monday and 9 hours on Tuesday through Friday for a total of 44 hours that week. One of those days, Chris did not get any rest breaks.

- Is Chris entitled to overtime pay?
- If so, how much overtime pay are they entitled to?
- How many rest breaks is Chris entitled to during a 9-hour shift?
- Should they get reimbursed for the missed rest breaks?

SCENARIO: Wage & Hour

Chris (they/them) works at a retail store during the summer for \$20 per hour. Chris usually works four to five days a week, for around 32 hours per week.

One week, Chris was asked to pick up some extra shifts because a co-worker was sick. Chris agreed to cover the shifts, and ended up working 8 hours Monday and 9 hours on Tuesday through Friday for a total of 44 hours that week. One of those days, Chris did not get any rest breaks.

Is Chris entitled to overtime pay?

- Yes

If so, how much overtime pay are they entitled to?

- Chris is entitled to 4 hours of overtime pay for a total of \$120.00 ($20 \times 1.5 = \30.00 per overtime hour \times 4 hours = \$120.00)

How many rest breaks is Chris entitled to during a 9-hour shift?

- Two 10 minute paid rest breaks

Should they get paid for the missed rest breaks?

- Chris is entitled to a “premium wage” of one additional hour of pay at their regular rate of \$20, for a total of \$40 for the two missed rest breaks



Rights for Young Workers

16-to-24 year old Workforce

- More than 2 million youth are employed in California, about 12% of the total workforce.
- About 64% of young workers are classified as low-wage earners.
- Low-wage workers in Los Angeles frequently experience violations of minimum wage and overtime pay.

Rights for Young Workers

Workers under 18

- Legal working age is 14
 - Minors under 14 can work some jobs
 - Like babysitting, yard work, lemonade stand
 - Agricultural jobs if legal guardian operates or owns premises
- Minors under 18 cannot work certain jobs
 - Meatpacking, roofing, excavation, logging (FLSA)
 - Excavations, scaffolding, tobacco, driver, boat, railroad (CA)
- Different rules for entertainment industry



Wage and Hour

Work and School

Hours a minor can work

- Depends on whether school is in session
- Whether it is a school day
- Minor's age

School attendance if not graduated from high school

- Under 16, must attend school full-time
- Over 16, must attend school at least 4 hours per week (if working full-time) or 15 hours per week (if working part-time)



Work Permit

Minors need a California work permit

- Statement of Intent to Employ Minor and Request for Work Permit
- Submit completed application to school for approval
- School issues work permit
 - Parent or guardian must also sign the permit
- Permit is returned to the employer

Penalties to the employer

- For underage workers in hazardous occupations
- For work hour violations



SCENARIO: Wage & Hour

Jamie (he/him) is 17 and has recently started working part-time at a local café. Jamie's boss is impressed with his work ethic and wants to increase Jamie's working hours, especially during the week. Jamie has not yet graduated from high school.

- How many hours of school must Jamie attend each week to comply with California's education laws?
- How many hours a week can Jamie work?
- During what hours is it legally permissible for Jamie to work on school days?

SCENARIO: Wage & Hour

Jamie (he/him) is 17 and recently started working part-time at a local café. Jamie's boss is impressed with his work ethic and wants to increase Jamie's working hours, especially during the week. Jamie has not yet graduated high school.

- **How many hours of school must Jamie attend each week to comply with California's education laws?** Jamie must continue to attend school until he turns 18 or graduates. He must attend school for at least 15 hours per week since he is employed part-time.
- **How many hours per week can Jamie work?** Jamie can work up to 48 hours a week. 8 hours per workday on non-school days and 4 hours per day on school days.
- **From what time to what time is it legally permissible for Jamie to work on school days?** Jamie must work between 5am and 10pm or 5 am and 12:30am if the following day is not a schoolday.

Exceptions to Minimum Wage

Professional, executive, or administrative workers

Learners or trainees

- Can be any age
- For first 160 hours in an occupation in which they have no previous similar or related experience
- 85% of the minimum wage

Apprentice

- Formal training program

Student employee of an organized camp

- 85% of minimum wage

Certain programs serving persons with disabilities



Exceptions to Minimum Wage

“Intern-like” workers/trainees

- Apply the “Primary Beneficiary Test”



Wage and Hour

How to enforce your rights

- Talk to supervisor
- File a Labor Commissioner complaint

Labor Commissioner's Office or
Division of Labor Standards Enforcement (DLSE)
www.dir.ca.gov/dlse/DistrictOffices.htm



Wage and Hour

Independent Contractor

Self-employed person who generally sets their own hours, chooses their own clients, and has the own equipment or tools

Not entitled to most of the laws that we just discussed.

However, work permits are only issued to minors who have an employer.

If improperly classified as an independent contractor, can file a wage claim or report to EDD.





Wage and Hour

At Will vs. Wrongful Termination

- When you are an “at will” employee, your employer can fire you for any reason whatsoever, even if the reason is false or unfair.
- However, there are laws that prohibit employers from terminating employees when it violates law or public policy such as:
 - Discrimination, Harassment, or Retaliation

Anti-Discrimination Protections



Discrimination-Free Workplace

Under California state and Federal law, it's illegal for employers to discriminate against a job applicant or employee based on a protected characteristic.

- Includes discriminatory treatment, harassment, retaliation, and disparate impact



Discrimination-Free Workplace

California's Fair Employment and Housing Act (FEHA) is more protective than federal law

- Applies to employers with 5 or more employees

Protected Characteristics:

- Race
- Sex
- Sexual orientation
- Gender Identity
- Religion
- National Origin
- Disability
- Medical Condition
- Marital status
- Military status
- Genetic information
- Age



Discrimination-Free Workplace

Discrimination-free means that you are protected from:

- Being treated differently or less favorably than other employees
- Harassment or unwanted sexual advances
- Failure to provide “reasonable accommodations”
- Neutral policies that have a disparate impact on one particular group



Sexual Harassment in the Workplace



Sexual Harassment in the Workplace

Sexual harassment is a form of discrimination based on sex, gender, gender identity, or sexual orientation.

Sexual harassment includes any unwelcome conduct that is sexual or related to sex or gender that interferes with your work environment.

It can include:

- unwelcome sexual advances
- requests for sexual favors
- other verbal or physical harassment of a sexual nature in the workplace (or learning environment).

Sexual harassment is **ILLEGAL** under California and federal law.



Sexual Harassment in the Workplace

What does sexual harassment look like?

Sexual harassment may include ANY behavior that makes you feel uncomfortable based on your sex or gender, or because of its sexual nature.

Physical

Standing too close to you, blocking your movement, unwanted touching, sexual assault

Verbal

Comments about your body, clothing, or sexual experience, pressuring you to go on dates, leaving inappropriate voicemails, sexual jokes

Non-Verbal

Staring, gesturing, making faces

Sexual Harassment in the Workplace

Types of sexual harassment

Quid Pro Quo

- When someone conditions your job or work situation on your agreement to participate in sexual activity or accept sexual advances or harassment

Hostile Work Environment

- When unwelcome comments that are sexual or based on your sex interfere with your ability to do your job or feel comfortable at work.



What is actionable sexual harassment?

- **Conduct that is sexual in nature**
 - This is broad, and includes any non-consensual touching, language, requests for dates or sexual acts, or even suggestive gestures
- **That is *severe* or *pervasive***
 - Pervasive means it happens repeatedly or consistently. In general, conduct that happens only once is not enough to be legally actionable because it is not pervasive – this is generally the case with harassing language or non-consensual touching that is not inherently sexual
 - Severe means that the conduct was so clearly over the line that it is actionable, in some cases even if it only happened once – an example of this would be a workplace sexual assault
- **That the employer knows or should have known about**
 - Any conduct by a supervisor is presumed to be known by the employer. Any conduct you have previously reported will generally be found to be known by the employer.

What should you do if you experience harassment or discrimination at work?

Speak Up

- If you feel safe, tell the harasser to stop. If you don't feel safe doing that, *that is ok* – but you should speak to someone you trust about what you are experiencing so that you have support. This could include a lawyer.

Keep Records

- Write down everything that happens that bothers you – what time and where it happened, and who was around. Keep any texts or photographs..

Report

- Report the issue to your employer. This can be verbally or in writing. Your employer is required to have a sexual harassment policy that tells you who to speak to, but if your supervisor is a safe person, that is a good place to start.

SCENARIO: Sexual Harassment

Angelica (she/they) just started working at a coffee shop. Angelica's co-worker, Trevor (he/him), asked her out on a date, which Angelica refused. Trevor has started making comments on Angelica's outfits and body. He also has started to change his shift schedule to match Angelica's. Trevor has also continued to ask Angelica out, despite them telling Trevor that they are uncomfortable and to stop.

- Is this sexual harassment?
- What should Angelica do?

SCENARIO: Sexual Harassment

Angelica (she/they) just started working at a coffee shop. Angelica's co-worker, Trevor (he/him), asked her out on a date, which Angelica refused. Trevor has started making comments on Angelica's outfits and body. He also has started to change his shift schedule to match Angelica's. Trevor has also continued to ask Angelica out, despite them telling Trevor that they are uncomfortable and to stop.

Is this sexual harassment?

- Yes, all of Trevor's behavior could constitute sexual harassment

What should Angelica do?

- Speak to their supervisor, if Angelica's supervisor is a safe person
- Make a complaint to HR
- Make sure to document or save any information on the incidents
- If you have questions about the reporting process, review your workplace sexual harassment policy

Protection from Retaliation

- Retaliation is when your employer treats you differently, or changes your pay or job duties, because you complained about harassment or discrimination.
- **Retaliation is illegal**
- If you experience retaliation, you should report this to your employer and speak to a lawyer or advocate.



Tips for having difficult conversations with your employer

- Ask employer to schedule a private meeting
- Have a clear goal for what you want to accomplish during the meeting
- Prepare notes for the conversation
 - Bring know your rights resources
 - Bring any records documenting the problem
- Take notes during or right after the meeting
- Follow-up in writing



Steps to Enforce Worker's Rights

- Informal negotiations with the employer (demand letter)
- File an administrative complaint
- California Civil Rights Department (CRD) (formerly known as DFEH) vs. Equal Employment Opportunity Commission (EEOC)
- Time limits:
 - Federal: 300 days
 - California: Three years (state)
- Investigation by the government agency
- Right to Sue letter to file a civil lawsuit





**AUDREY IRMAS PROJECT FOR
WOMEN AND GIRLS' RIGHTS**



WORKPLACE RIGHTS ADVICE CLINIC

WEDNESDAYS
4:00 – 7:00 PM

Contact us for information
about your rights and options
regarding:

- Workplace discrimination
- Sexual harassment or assault at work
- Unfair or Unpaid Wages
- Wrongful Termination
- Parent/caregiver rights and family leave
- Pregnancy and lactation Accommodations

SIGN UP AT

www.tinyurl.com/WGRClinic

FOR MORE INFORMATION

213-386-3977 ext. 410

OR VISIT OUR WEBSITE

www.publiccounsel.org/wgr

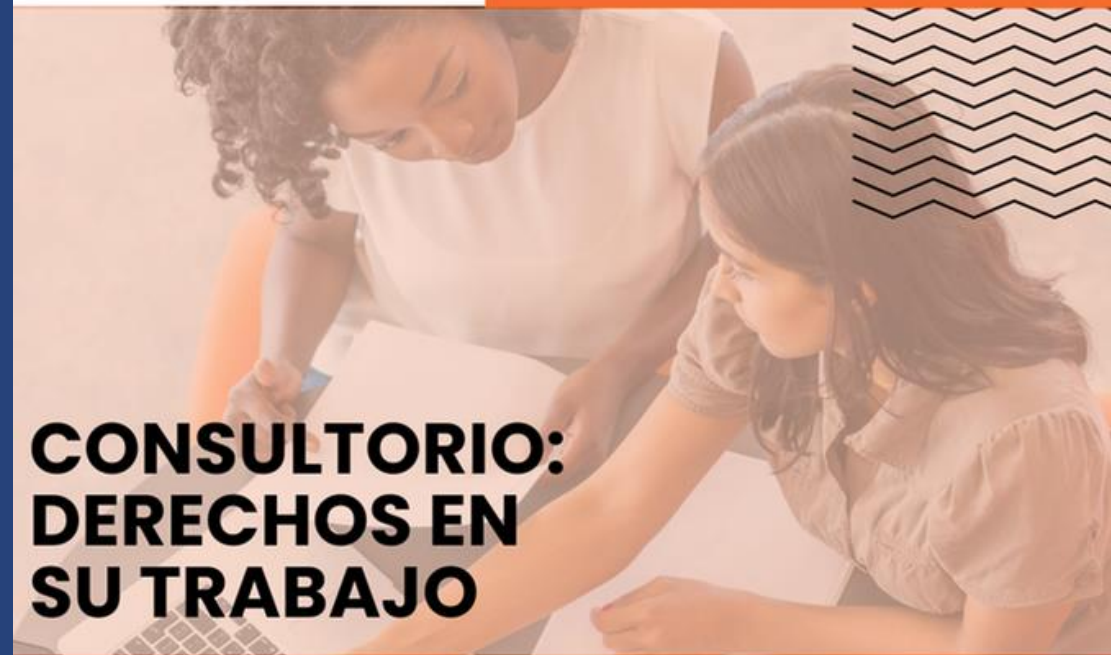
Please note, WGR serves cis and trans women, girls, and non-binary folks in Los Angeles County, CA.



This project was made possible by a grant from the California Commission on the Status of Women and Girls



**PROYECTO AUDREY IRMAS
POR LOS DERECHOS DE LA
MUJER Y LA NIÑA**



CONSULTORIO: DERECHOS EN SU TRABAJO

LOS MIÉRCOLES

4:00 – 7:00 PM



- Discriminación en su trabajo
- Hostigamiento/Asalto sexual en el trabajo
- Salario injusto o no retribuido
- Terminación injusta
- Derechos como padres/cuidadores familiares
- Acomodaciones para embarazo y lactación

APÚNTESE EN

www.tinyurl.com/WGRClinic

PARA MÁS INFORMACIÓN

213-386-3977 ext. 410

VISITE NUESTRA PÁGINA DE WEB

www.publiccounsel.org/wgr

Este proyecto es posible con una beca de parte de la California Commission on the Status of Women and Girls.

Nuestro proyecto ofrece servicios mujeres y niñas (cis y trans) y personas no binarias con bajos recursos en el condado de Los Angeles.

Take our Survey!

We want to know what legal services you need most!

Please take this quick survey to help us learn more about how we can better serve you and, if you want, be entered into a raffle for a chance to win \$100 gift cards!

Please note, the survey remains anonymous. Participation in the raffle is optional. Completion of the survey is required to enter the raffle. We will raffle three (3) \$100.00 gift cards at the end of our survey process. Raffle winners will be contacted by May 10, 2024. If we are unable to reach you at the telephone number or email you provided by May 17, 2024, we will choose another participant. No participant will be eligible to receive more than one gift card.





Public Counsel
AUDREY IRMAS
PROJECT FOR WOMEN
AND GIRLS' RIGHTS

ALLIANCE *for* CHILDREN'S RIGHTS

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STAY
CONNECTED

allianceforchildrensrights.org



THANK
YOU

@allianceforchildrensrights

