

*Employment & Compensation Law***Terms & Concepts****Agent of the Company**

As a supervisor, you are an “agent of the Company,” 24 hours a day, 7 days a week. As such, your promises to people inside and outside the Company can be binding on the Company. This holds true for both express promises and implied promises.

As an agent of the Company, “your knowledge is the Company's knowledge.” This means, in the eyes of the law, information known to you is also known to the Company. In a discrimination claim, the Company cannot make the defense that it was “unaware” of discriminatory activity if it is shown that one of its supervisors was aware of the activity. Therefore, it is your obligation as a supervisor to notify the Sempra Energy Office of Corporate Diversity Affairs as soon as you become aware of an issue involving discrimination.

It is also your responsibility to: (1) know and consistently follow Company policies, (2) communicate relevant policies to employees and ensure compliance with such policies, (3) communicate complaint reporting procedures to employees who wish to file a complaint, (4) monitor workplace behavior, (5) promote and maintain a professional and respectful workplace, (6) address and stop inappropriate behaviors, (7) provide meaningful and constructive feedback to your reports, (8) maintain the confidentiality of employees’ personnel and medical information, except when disclosure is necessary, (9) be an unbiased and neutral fact-finder, and (10) take issues and complaints seriously.

As an “agent of the company” there are special rules regarding both corporate and individual liability:

- The Company is legally obligated to defend and indemnify you if you are sued by an employee for conduct that has occurred *within the course and scope of your employment duties*. For example, a supervisor who is accused of writing a discriminatory performance evaluation generally will be acting within the course and scope of employment and, as such, will be defended or indemnified by the Company.
- In contrast, a supervisor who has engaged in quid pro quo or hostile working environment sexual harassment is *acting outside the course and scope of their employment* and will *not* be defended or indemnified by the Company. They can be held personally liable, meaning their property and assets may be forfeited to pay court judgments. In California, individual employees may be held personally liable in a civil court action by the people whom they harass.

In some instances, liability may be limited if you can provide timely, *written*

documentation of incidents and decisions that illustrate a legitimate business reason for the decision made. As such, it is important to document the reason for a decision when the decision is made. The documentation should be accurate, objective and thorough.

Employment At Will

Employment at will means that either the employer or the employee may terminate the employment relationship for any reason or no reason, with or without giving notice to the other party.

No "good cause" is necessary for termination, unless the employer has made a promise of continued employment or has promised it will only terminate for cause. However, an at-will employee cannot be terminated for a legally discriminatory reason such as race, pregnancy, or in retaliation for whistle-blowing.

Supervisors may not fire someone, even at-will employees, without first involving the Human Resources (HR) department. If an employee is involved in a situation that requires them to immediately leave Company property, they should be placed on administrative leave.

In California, every *non-union* employee is presumed to be employed "at will." The union workforce is *not* employed "at will" because it works under provisions of the Collective Bargaining Agreement (CBA) which is a contract. If you supervise union employees, you must follow the CBA's provisions.

A verbal promise can constitute a contract. Avoid creating a contract for continued employment. Do not make "express" or "implied" promises to current or prospective employees to the effect that they will be employed for a certain period (e.g., to retirement) or that they will only be terminated for cause.

Examples of express promises:

- A supervisor's statement during an interview that an employee will automatically get a pay raise when the cost of living goes up.
- A statement in a job advertisement that those who join the company "will never be laid off" or "will have a job until retirement."

Examples of implied promises:

- A statement by a supervisor during the interview process to the effect that "If you do your job and don't mess up, you need not worry about job security."
- A statement by a supervisor that "You could spend your entire career with this company if you chose to."

Right To Privacy

Every employee has a reasonable expectation of privacy and supervisors must inform their direct reports when they cannot expect privacy on Company premises. The Company reserves the right to examine or search Company property and employee property that is on Company premises. This can include inspections of offices, desks, files, emails and Company vehicles. Examples of items that may be inspected include lockers, toolboxes, desks and the contents of computers.

Employee relations issues should be kept confidential, on a need-to-know basis. However, *do not* promise an employee "strict confidentiality," because circumstances may require the involvement of others, such as HR.

Defamation

"Defamation" is a statement made about a person that is knowingly false and harmful to the person's reputation or that undermines the person's authority. Defamation may be verbal (slander) or written (libel).

Performance evaluations and disciplinary documents are generally considered "protected speech," meaning you may state your opinion as long as you do not characterize or label the employee in a defamatory manner. For example: Say, "In my view, his behavior was dishonest," rather than saying, "He's a liar and a thief."

Statements made in job references are not generally regarded as protected speech. However, in accordance with Company policy, all reference requests from both current and former employees should be referred to HR.

Duty To Provide Safe Work Environment

Part of the federal Occupational Safety and Health Act (OSHA) is a mandate called the *General Duty Clause* that requires all employers (and therefore all members of management) to "provide a workplace that is free of recognized hazards." Supervisors need to enforce Company safety programs and should follow Environment & Safety Department procedures regarding calls and visits from OSHA and Cal/OSHA. Supervisors should follow and promote the Company's principles of "stopping the job" when there is a safety concern.

Violence In The Workplace

The Company is committed to maintaining a safe work environment, meaning one free from the hazards of violence. The goal is to maintain a safe and secure workplace for all employees, customers, suppliers and visitors.

This responsibility begins with supervisors. Anyone in a supervisory capacity has an important role to play in ensuring a safe work environment.

It is crucial that any supervisor who becomes aware of imminent or actual violence report it at once to HR and Corporate Security. If there is an immediate threat of danger to you or others on the job, call local law enforcement at 911 and then contact HR and Corporate Security when it is safe to do so.

Supervisors and employees should promptly report to Corporate Security any statement or action they believe constitutes a threat of violence, even if there is no immediate danger. If the matter is not urgent, you can also use the Ethics Helpline to report or discuss concerns about issues involving violence.

Corporate Security will investigate reports promptly and take proper action. All threats are taken seriously. HR will work with supervisors and their direct reports to address issues that may be contributing to inappropriate or difficult behavior.

Any employee who engages in a violent act or conduct is subject to disciplinary action, up to and including termination. Besides internal discipline, the Company will cooperate with law-enforcement officials in criminal prosecutions against offenders.

Key Strategies and Resources to Ensure a Safe Workplace

In California, supervisors are exposed to personal liability when they recognize a safety issue and do not act to remedy it or elevate it to someone with authority to act. As a supervisor, you can do several things to help ensure a safe workplace free of violence. These include:

- Identify and document early any inappropriate behavior.
- Intervene early to systematically bring an unstable, hostile situation under control.
- Confront aggressive employee behavior and investigate any underlying organizational problems.
- Consult with internal and external resources: HR, Corporate Security, the police Psychiatric Evaluation Response Team (PERT), or Employee Assistance Program (EAP).
- Refer employees to EAP counseling for declining job performance or signs of serious emotional distress.
- Take appropriate and timely disciplinary action and procedural options for dealing with a threatening employee in the workplace.
- Be aware that senior management supports zero tolerance for threatening behavior.

Recognize Early Warning Signs

Be aware of early warning signs and indications that an employee may be having personal problems that could affect job performance or interactions with other employees. Signs may include:

- Friction with supervisor or co-workers;
- Unusual or inappropriate behavior;
- Poor morale among the employee's co-workers;
- Increased difficulty in concentrating;
- Confusion;
- Unpredictable work patterns;
- Decrease in job efficiency;
- Change in job professionalism;
- Threats or innuendoes;
- Denial that a problem exists;
- Self-destructive behavior (alcohol/drug usage);
- Paranoid, guarded behavior;
- Superficial relationships;
- Tendency to blame others when things go wrong; or
- Any significant and unexplainable change in an employee's performance or routine.

If you have any concerns related to workplace violence, talk with an HR Advisor or Corporate Security.