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Law against Sexual Harassment or Harassment in Employment and Education
N° 7476

THE LEGISLATIVE ASSEMBLY OF THE REPUBLIC OF COSTA RICA

DECREES:

LAW AGAINST SEXUAL HARASSMENT IN

EMPLOYMENT AND EDUCATION

CHAPTER I

FOUNDATION

Article 1.- Governing Principles. This Law is based on the constitutional principles of respect for liberty and human life, the right to work and the principle of equality before the law, which oblige the State to condemn discrimination based on sex and to establish policies to eliminate discrimination against women, according to the United Nations Convention on the Elimination of All Forms of Discrimination against Women and the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women.

[Article sheet](#)

CHAPTER II

OBJECTIVE AND DEFINITIONS

Article 2.- Objective

The purpose of this Law is to prevent, prohibit and punish sexual harassment as a discriminatory practice based on sex, against the dignity of women and men in the workplace and education, in the public and private sectors.

(As amended by Article 1 of Law No. 8805 of April 28, 2010)

[Article sheet](#)

Article 3.- Definitions. Sexual harassment or sexual harassment is understood to be any sexual conduct that is undesired by the person receiving it, repeated and that causes harmful effects in the following cases:

- a) Material conditions of employment or teaching.
- b) Work or educational performance and compliance.
- c) General state of personal well-being.

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Serious conduct that, having occurred only once, harms the victim in any of the aspects indicated is also considered sexual harassment.

Article sheet

Article 4.- Manifestations of sexual harassment. Sexual harassment may be manifested by means of the following behaviors:

1.- Requests for sexual favors involving:

- a) A promise, implicit or express, of preferential treatment with respect to the recipient's current or future employment or study situation.
- b) Threats, implied or expressed, physical or moral, of harm or punishment related to the current or future employment or study situation of the recipient.
- c) A requirement of conduct, the submission to or refusal of which is, implicitly or explicitly, a condition of employment or study.

2.- Use of words of a sexual nature, written or oral, that are hostile, humiliating or offensive to the person who receives them.

3.- Corporal approaches or other physical conduct of a sexual nature, unwanted and offensive to the recipient.

Article sheet

CHAPTER III

PREVENTION OF SEXUAL HARASSMENT

Article 5.- Prevention responsibilities. Every employer or manager shall have the responsibility to maintain, in the workplace, conditions of respect for those who work there, by means of an internal policy that prevents, discourages, avoids and punishes sexual harassment conducts. To this end, they shall take express measures in internal regulations, collective bargaining agreements, direct or other arrangements. These shall include, but not be limited to, the following:

- 1) Communicate, in written and oral form, to supervisors, representatives, employees and workers in general about the existence of an institutional or corporate policy against sexual harassment. Likewise, they shall make this prevention policy known to third parties when it is convenient for the fulfillment of the purposes established in this law.
- 2) Establish an adequate and effective internal procedure for reporting sexual harassment, guaranteeing the confidentiality of the reports and the sanctioning regime for harassers when there is cause.

In no case may said procedure exceed a period of three months, counted from the filing of the sexual harassment complaint.

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3) Maintain personnel with experience in the prevention of sexual harassment. In addition, employers may enter into agreements with public or private institutions or organizations in order to obtain knowledge on the scope of this Law.

4) Maintain an updated record of final sanctions imposed in the workplace or institution for sexual harassment. This registry may be consulted by any interested person, safeguarding the identity, personal data and any other sensitive information of the victims. The information will be kept in the registry for a period of ten years, starting from the finality of the respective sanction. Minors are exempted from the application of this subsection.

(The above paragraph was added by the sole article of the law to ensure publicity of final sanctions imposed for sexual harassment, No. 9969 of April 13, 2021).

(As amended by Article 1 of Law No. 8805 of April 28, 2010)

Article sheet

Article 6.- Disclosure of the Law. Every employer or manager shall be responsible for disclosing the contents of this Law. The Ombudsman's Office may assist in this process.

Article sheet

Article 7.- Obligation to inform the Office of the Ombudsman of the Republic. The Office of the Ombudsman of the Republic shall ensure compliance with the provisions of Article 5 of this Law.

The superior authority or the competent authority to receive the complaint of sexual harassment in the workplace or in the educational institution, in the public sector, shall be obliged to inform the Ombudsman's Office of the presentation of the complaint, in order to have formal knowledge of it, access to the file and optional intervention in the procedure, so that it can exercise the advisory and controlling function of legality. Likewise, this authority must send the final resolution of the case to the Ombudsman's Office.

(As amended by Article 1 of Law No. 8805 of April 28, 2010)

Article sheet

Obligation to inform the Ministry of Labor and Social Security. The National Directorate and Labor Inspection of the Ministry of Labor and Social Security shall ensure compliance with the provisions of Article 5 of this Law.

In any instance of the private sector, the superior authority or the competent authority to receive the complaint of sexual harassment in the workplace or in the educational institution is obliged to report it to the National Directorate and Labor Inspection, in order for this authority to exercise its powers and ensure compliance with the provisions of this Law. In the event that the harassing person is the employer or

The victim shall inform the National Directorate and the Labor Inspectorate so that it may apply the internal procedure in accordance with the legal instruments in force.

(As amended by Article 1 of Law No. 8805 of April 28, 2010)

Article sheet

Article 9.- Duty of the educational centers. All educational centers shall comply with the provisions of Articles 5, 6, 7 and 8 of this Law.

(As amended by Article 1 of Law No. 8805 of April 28, 2010)

Article sheet

Article 10.- Penalty for non-compliance. Failure to comply with the provisions of the preceding articles constitutes a misdemeanor that shall be sanctioned according to its seriousness, in accordance with the provisions of articles 608 and following of the Labor Code.

Article sheet

Article 11.- Duty of professional associations. Professional associations shall establish preventive policies and sanction procedures for members who engage in sexual harassment or sexual harassment.

Article sheet

CHAPTER IV

RESPONSIBILITIES AND WARRANTIES

Article 12.- Liability of the employer. Any employer or manager who incurs in sexual harassment shall be personally liable for his actions. Likewise, he/she shall be liable if, despite having received the complaints of the offended person, he/she does not comply with the provisions of Article 5 of this Law.

Article sheet

Article 13.- Guarantees in teaching. In a teaching relationship, the student who has proven to be the object of harassment shall have the right to claim, to the teacher's employer or superior, the application of the labor sanctions foreseen in this Law. If a prejudice in his or her educational situation is proven as a result of the harassment, he or she shall have the right to be reinstated in the state prior to the harassment.

Article sheet

Article 14.- Guarantee for the complainant and witnesses. No person who has reported being a victim of sexual harassment or has appeared as a witness for the parties may suffer any personal prejudice in his or her employment or studies as a result.

Article sheet

Article 15.- Causes for dismissal of the complainant. Whoever has filed a complaint of sexual harassment, may only be dismissed for just cause, originating in a serious breach of the duties arising from the employment contract, in accordance with the causes established in Article 81 of the Labor Code. In the event of one of these causes, the superior authority or the competent authority will process the dismissal before the National Directorate and General Labor Inspection, where the existence of just cause for dismissal must be demonstrated. This Directorate may authorize, exceptionally and with justification, the suspension of the worker, while the dismissal is being resolved.

In the case of a domestic worker who files the complaint, he/she may apply to the National Labor Directorate and the General Labor Inspectorate for authorization to suspend the employment relationship.

Failure to comply with these provisions shall constitute, on the part of the employee, just cause to terminate, with employer's liability, the employment contract.

Exempt from the provisions set forth in this article are the employees of the Judicial Branch, to whom the provisions of its organic law and related internal regulations shall apply.

(As amended by Article 1 of Law No. 8805 of April 28, 2010)

Article sheet

Article 16.- False denunciations. Whoever falsely denounces sexual harassment may incur, when so typified, in any of the conducts of defamation, libel or slander, according to the Penal Code.

Article sheet

Article 17.- Termination of the employment contract. If sexual harassment occurs, but in the workplace the procedure indicated in Article 5 of this Law has not been established, or if it is not complied with, the worker may terminate the employment contract, with employer's liability.

Article sheet

(*)CHAPTER V

THE PROCEDURE IN THE WORKPLACE

()(Thus added to this chapter by Article 2 of Law No. 8805 of April 28, 2010)*

Article 18.- Principles that inform the procedure. The sexual harassment procedure is informed by the general principles of due process, proportionality and freedom of evidence, as well as the specific ones, understood as confidentiality, which implies the duty of the instances, the representatives, the persons who appear as witnesses and witnesses and the parties involved in the investigation and resolution, not to disclose the identity of the complainants or the person denounced, and the pro-victim principle, which implies that, in case of doubt, it will be interpreted in favor of the victim.

(So added by Article 2 of Law No. 8805 of April 28, 2010)

Article sheet

Article 19.- Receipt of the complaint. The highest authority of the public or private entity shall define the body responsible for receiving the complaint. Once the complaint has been assigned, said authority shall proceed accordingly, without resorting to the ratification of the complaint, nor to the preliminary investigation of the facts.

(So added by Article 2 of Law No. 8805 of April 28, 2010)

Article sheet

Article 20.- Integration of the Investigating Commission. Pursuant to subsection 2 of Article 5 of the present law, the knowledge of the complaints and their respective processing shall be carried out by means of investigative commissions, which shall be composed, preferably, of three persons, in which both sexes are represented, with knowledge in matters of sexual harassment and disciplinary regime.

When in a company or place of work or private study there are no conditions to carry out the investigation or for reasons of the reduced number of personnel or because the person denounced has the status of hierarchical superior, the denouncing person may resort to the Ministry of Labor or directly to the judicial process.

When the place of work or study is a public institution or entity and the person denounced is a public official or employee, the procedure established in this Law, its regulations and supplementarily by the General Law of Public Administration and its reforms will be followed. In any case, the complainant may appeal to the Ministry of Labor or directly to the courts.

The private labor centers must have internal regulations for the purpose of establishing the investigative commissions, their duration, procedures and other reasons of due process, an instrument that must be recognized and supervised by the Ministry of Labor.

(So added by Article 2 of Law No. 8805 of April 28, 2010)

Article sheet

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Article 21.- Parties. The complainant and the person denounced shall be considered parties to the proceeding.

(So added by Article 2 of Law No. 8805 of April 28, 2010)

Article sheet

Article 22.- Evidence. The evidence shall be evaluated in accordance with the rules of sound criticism, logic and experience; in the absence of direct evidence, circumstantial evidence and all other sources of common law shall be evaluated, taking into account the special principles governing sexual harassment. In case of doubt, what is most beneficial to the harassed person will be considered, with the express prohibition of considering the background of the complainant, particularly in relation to the exercise of his sexuality.

(So added by Article 2 of Law No. 8805 of April 28, 2010)

Article sheet

Article 23.- Legal advice and emotional support. In the procedures contemplated by this law, the parties may be represented by legal counsel. They may also be accompanied by the emotional or psychological support of their trust in the various phases of the procedure.

(So added by Article 2 of Law No. 8805 of April 28, 2010)

Article sheet

Article 24.- Precautionary measures. The Investigation Commission, at the request of a party and by means of a well-founded resolution, may request the competent manager or employer to order precautionary measures:

- a) That the alleged harasser refrains from disturbing the complainant.
- b) That the alleged harasser refrain from interfering with the use and enjoyment of the harassed person's work tools.
- c) Job relocation.
- d) The permutation of the position.
- e) Exceptionally, temporary separation from office with pay.

In the application of precautionary measures, the labor rights of those obliged to the preventive disposition must be respected, and they may be applied to both parties of the procedural relationship, and the safety of the victim must be maintained, fundamentally.

(So added by Article 2 of Law No. 8805 of April 28, 2010)

Article sheet

Article 25.-The precautionary measures shall be resolved in a prevalent manner and as a matter of urgency.

Its validity will be determined by its instrumentality for the process.

The superior's decision shall not be subject to further appeal, except in the case of addition or clarification.

(So added by Article 2 of Law No. 8805 of April 28, 2010)

Article sheet

Article 26.- Sanctions for popularly elected persons. The sanctions for popularly elected persons shall be:

a) To deputies: When so agreed by the Legislative Plenary in accordance with Article 121, paragraph 23) of the Political Constitution and in accordance with the provisions of this Law, it is proven that the act was committed by a deputy, the sanction shall be that of a public ethical reprimand.

b) To mayors, mayors' deputies and deputy mayors: when, based on the investigation conducted by the Investigating Commission in accordance with the provisions of this Law, it is proven that the act was committed by a mayor, mayors' deputies and deputy mayors, the sanction shall be a written reprimand, suspension or loss of credentials in accordance with Article 18(e) of the Municipal Code, once the administrative procedure ordered by the municipal council has been carried out in order to impose the corresponding sanction.

c) The sanction shall be a written reprimand, suspension or loss of credentials, in accordance with Article 24(e) of the Municipal Code, once the administrative procedure ordered by the Municipal Council has been carried out in order to impose the corresponding sanction.

d) To the trustees, municipal trustees, alternate trustees and other popularly elected persons at the local government level: when, based on the investigation carried out by the Investigating Commission in accordance with the provisions of this Law, it is proven that the act was committed by a trustee, or another sanction shall be a written warning, suspension or loss of credential, in accordance with the provisions of the Municipal Code, once the administrative procedure ordered by the municipal council has been instructed so that the corresponding sanction may be imposed.

(So added by Article 2 of Law No. 8805 of April 28, 2010)

(By resolution of the Constitutional Chamber No. 017833 of October 29, 2014, the action of unconstitutionality was dismissed, provided that it is interpreted that the administrative sanction of loss of credential imposed by the Supreme Electoral Tribunal may be subject to review before the Contentious-Administrative Jurisdiction in accordance with Article 49 of the Constitution).

Article sheet

CHAPTER VI

(Thus corrected the numbering of the previous chapter by Article 2 of Law No. 8805 of April 28, 2010, which transferred it from the former Chapter V to Chapter VI)

JUDICIAL PROCEEDING TO SANCTION

SEXUAL HARASSMENT

Article 27.- Jurisdiction of the courts of labor jurisdiction. Once the procedures established in the workplace have been exhausted or if they are not complied with for reasons that cannot be imputed to the offended person, complaints of sexual harassment may be filed before the courts of labor jurisdiction, which shall be competent to hear them.

In teaching relationships, once the procedures established in the educational center have been exhausted or if they are not complied with for reasons that cannot be imputed to the offended person, the student may file a complaint before the labor courts so that the sanctions established in this Law may be applied against the person accused of harassment and his or her employer, as appropriate.

(Thus corrected by Article 2 of Law No. 8805 of April 28, 2010, which transferred it from the former Article 18 to Article 27)

Article sheet

Article 28.- Filing of the lawsuit. The persons offended by sexual harassment may sue the person who harasses them or the employer or manager thereof, in the cases provided for in this Law, before the corresponding judge, in accordance with the provisions of the Labor Code.

(Thus corrected by Article 2 of Law No. 8805 of April 28, 2010, which transferred it from the former Article 19 to Article 28)

Article sheet

Article 29.- Claim for harassment of minors. When the offended person is a minor, the lawsuit may be filed by his parents, his legal representatives or the National Child Welfare Agency (PANI). In the case of a person over fifteen years of age, but under eighteen years of age, he/she shall be entitled to file the complaint directly.

In the case of non-judicial complaints, minors shall have the right to file a complaint, by any means, without the need to be accompanied by legal representation, without any admissibility requirement that would impede or delay investigations and appropriate measures to protect the complainant.

(Thus corrected by Article 2 of Law No. 8805 of April 28, 2010, which transferred it from the former Article 20 to Article 29)

(As amended by Article 2 of Law No. 10029 of October 6, 2021)

Article sheet

Article 30.- Legal framework of the claim. Once the lawsuit has been filed, it shall proceed in accordance with the provisions of Articles 464 and 468 of the Labor Code, except with respect to the time limit for the hearing that the judge shall grant to the defendant, which shall be from three to eight days.

(Thus corrected by Article 2 of Law No. 8805 of April 28, 2010, which transferred it from former Article 21 to Article 30)

Article sheet

Article 31.- Appearance of the parties. Once the time limit for answering the claim has expired, the judge shall summon the parties for the taking of evidence. In the absence of direct evidence, the judge shall resort to circumstantial evidence. Conciliation shall not proceed. In all other matters, the procedure shall be governed by the procedure for small claims.

(As amended by Article 1 of Law No. 8805 of April 28, 2010)

(Thus renumbered by Article 2 of Law No. 8805 of April 28, 2010, which transferred it from former Article 22 to Article 31)

Article sheet

Article 32.- Privacy of hearings. The hearings shall be held in private.

(As amended by Article 1 of Law No. 8805 of April 28, 2010)

(Thus corrected by Article 2 of Law No. 8805 of April 28, 2010, which transferred it from the former Article 23 to Article 32)

Article sheet

Article 33.- Action of the judge. In order to appreciate the evidence and determine whether the conduct denounced constitutes sexual harassment, the judge shall consider, in accordance with the rules of sound criticism, all the circumstances in which the facts occurred, without including considerations relating to the background of the sexual behavior of the offended person.

(Thus corrected by Article 2 of Law No. 8805 of April 28, 2010, which transferred it from the former Article 24 to Article 33)

Article sheet

CHAPTER VII

(Thus corrected the numbering of the previous chapter by Article 2 of Law No. 8805 of April 28, 2010, which transferred it from the former Chapter VI to Chapter VII)

SANCTIONS

Article 34.- Types of sanctions. The sanctions for sexual harassment shall be applied according to the seriousness of the act and shall be as follows: written reprimand, suspension and dismissal, without prejudice to the corresponding remedy, when the conduct also constitutes punishable acts, as established in the Penal Code.

The information related to these sanctions, including the identity of the sanctioned persons, shall be of public access, after the sanctions have become final. This access shall be in accordance with the provisions of subsection 4) of article 5 of this law.

(The above paragraph was added by the sole article of the law to ensure publicity of final sanctions imposed for sexual harassment, No. 9969 of April 13, 2021).

(Thus corrected by Article 2 of Law No. 8805 of April 28, 2010, which transferred it from the former Article 25 to Article 34)

Article sheet

Article 35.- Rights of the terminated person. When the harassed person has terminated the employment contract with employer responsibility or has been dismissed for that cause, he/she shall have the right to:

- a) That the corresponding benefits be cancelled.
- b) Payment of back salaries and other items determined by the judge.
- c) Return to his or her position, if expressly requested. If you are a public employee, you may opt for an exchange.

(Thus corrected by Article 2 of Law No. 8805 of April 28, 2010, which transferred it from the former Article 26 to Article 35)

Article sheet

Article 36.- Dismissal of the harasser. Any person who is proven to have incurred in sexual harassment may be dismissed without employer liability.

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(Thus corrected by Article 2 of Law No. 8805 of April 28, 2010, which transferred it from the former Article 27 to Article 36)

Article sheet

Article 37.- Compensation for moral damages. When, by judgment, harassment is proven, the offended person shall be entitled to compensation for moral damage, if it has been accredited, which shall also be known to the Labor Judge.

(Thus corrected the numbering by Article 2 of Law No. 8805 of April 28, 2010, which transferred it from the former Article 28 to Article 37)

Article sheet

CHAPTER VIII

(Thus corrected the numbering of the previous chapter by Article 2 of Law No. 8805 of April 28, 2010, which transferred it from the former Chapter VII to Chapter VIII)

FINAL PROVISIONS

Article 38.- Article 38 - Time limit for filing a complaint and statute of limitations. The term to file a complaint, in the labor and educational field, in the public and private sectors, whether before a judicial or non-judicial instance, whether in private employment, teaching or educational spaces, in administrative or judicial instances, shall be considered eight years and shall be computed from the last event resulting from sexual harassment or from the time when the justified cause that prevented the complaint ceased to exist.

In the case of minors, this period shall be computed from the moment they reach the age of majority.

The statute of limitations shall be computed in accordance with Article 414 of Law 2, Labor Code of August 27, 1943.

(Thus corrected by Article 2 of Law No. 8805 of April 28, 2010, which transferred it from the former Article 29 to Article 38)

(As amended by Article 1 of Law No. 10029 of October 6, 2021)

Article sheet

Article 39.- Supplementary rules. For everything that is not regulated in this Law, if there is no incompatibility with this text, the Labor Code and related labor laws shall be applied supplementarily. The Civil Code shall apply when there are no regulatory norms.

(Thus corrected by Article 2 of Law No. 8805 of April 28, 2010, which transferred it from the former Article 30 to Article 39)

Article sheet

Article 40.- Scope of application of this law. The present law shall be applied in relations of hierarchy or authority; relations between persons of the same hierarchical level, between persons of a lower hierarchical level to a higher one, and relations between servants and users in the work and educational environment, of the public sector and the private sector.

(As amended by Article 1 of Law No. 8805 of April 28, 2010)

(Thus corrected by Article 2 of Law No. 8805 of April 28, 2010, which transferred it from the former Article 31 to Article 40)

Article sheet

Article 41.- Validity. Effective as of its publication.

(Thus renumbered by Article 2 of Law No. 8805 of April 28, 2010, which transferred it from former Article 32 to Article 41)

Article sheet

TRANSITIONAL PROVISIONS

Sole transitory.- The provisions of Articles 5 and 7 above shall be complied with within a term of three months as from the effective date of this Law.

Given at the Presidency of the Republic, San José, on the third day of the month of February, nineteen hundred ninety-five.

Article sheet

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