

HELP NEWS

The Monthly Newsletter of Helping Employees Learn Prosperity (HELP)

Job Rights Q&A

General Answers to advise you on your job & workplace

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Also:

Your HELP Benefits & Perks
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Welcome!



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Dress Code Policies

As the weather heats up, and schools break for the summer, public employees may become more casual with their attire. It is a good reminder to check your employer's dress code policy to ensure your attire does not lead to potential discipline for violating policy. There are no laws requiring specific dress codes in the workplace, absent any relevant safety requirements. However, many public employers do have and enforce dress code policies. This has become more common in the post-Pandemic, return-to-the-office world. Some public employers have been intentional about updating and enforcing more traditional appearance standards.

Dress code policies are part of terms and conditions of employment. This means that an employer must give notice to the employee organization and allow for negotiations prior to implementing new dress code standards. This month, we look at common features of dress code policies and important points to note.

Dress Code Policies Should Be Limited to When You Are at Work

Dress code policies should generally apply only while you are at work or on the clock. During work hours, you represent your employer. This means that employers can require you to maintain a specific appearance when providing services. When you are off work, you are generally not the employer's representative, and you can dress and appear how you want. Public employers typically cannot discipline you for how you express yourself on your own time – though sometimes they might try. Employers may not unreasonably restrict off-duty conduct and must not base employment decisions on

off-duty conduct that does not impact an employee's on-the-job performance. This is known as job nexus. When a public employer tries to regulate or prohibit an employee's off-duty conduct, it affects the right to privacy and freedom to associate. Freedom to associate includes the right to engage in a wide variety of political, social, economic, educational, religious, and cultural activities. (*Warfield v. Peninsula Golf & Country Club* (1995) 10 Cal. 4th 594). California courts generally hold that public employees may not be disciplined for what they do in their private life "so long as such conduct does not impair public service or cause discredit to [the] agency." (*Morrison v. State Board of Education* (1960) 1. Cal. 3d 214, 222-223). California law may even allow for the labor commissioner to investigate claims where the employee was disciplined for off-duty conduct. (Labor Code §96(k)).

An exception, of course, is if you use your employer uniform, logo, or insignia while off work. Employees who display their employer's uniform in pictures or videos, such as in social media posts, can be subject to discipline if it harms the employer's reputation or is done for pecuniary or personal gain. In *City of San Diego v. Roe* (2004) 543 U.S. 77, the Court upheld the City's right to terminate a police officer who made and sold sexually explicit videos of himself in uniform proclaiming that he is law enforcement. The Court said his behavior was detrimental to the mission and functions of the employer. Any language in dress code policies that attempt to control what employees wear on their off-duty time should be limited to situations like the *Roe* case, and employees should avoid wearing or using employer uniforms, logos, or insignia while off work.

Specific Uniforms

Some local government employees may be required to wear specific uniforms based on their job classification. For example, some field employees (police services officers, building inspectors, maintenance crews) may be required to wear uniforms, shirts, or other insignia that clearly identify them as agents of the employer, particularly when out in public or when interacting with residents. A

dress code policy might even say that some departments, such as police and fire, which have more rigorous uniform requirements, are not covered by the policy and are subject to their own Department-specific standards.

Check your employer's dress code policy. It might differentiate between employees who are uniformed employees from those who are subject to more general appearance standards. Also, check your memorandum of understanding ("MOU"). Most MOUs have uniform sections that provide for specific uniform requirements or allowances. If your job title is listed in the uniform section of your MOU, you are likely required to wear the uniform that the employer provides or pays you to wear. The value of any uniform benefit (regardless of if it is employer paid or an allowance) is reportable as special compensation for Classic Members – the value of the uniform costs or allowance is factored into your retirement calculation! That is one benefit of having specific uniform requirements that your co-workers in other job classifications or departments may not be subject to.

If the amount the employer provides does not cover the cost, the employee organization can propose to increase the amount in the next MOU negotiation. The best arrangement is one where the employer provides uniforms upon hire and replacements upon employee request. Employees often prefer receiving lump-sum uniform allowances, which they can spend at their leisure. The disadvantage is that employees must use the funds to purchase uniforms, and costs often rise much faster than the allowance. This puts you and your employee organization in a position where you must continually bargain for higher amounts, which can sometimes affect how much other benefits are increased. This includes safety boots as well. Most employers provide allowances for work boots but leave it to the employee organization to negotiate the amount each MOU. Some provisions might allow funds to be spent on shoelaces and insoles, while others might limit it to the boots themselves. If an allowance is provided, the employer can require you to wear the uniform or boots, and to keep it clean and properly maintained. If you receive an allowance, use it per the



Uniform
allowances
count toward retirement



terms of the MOU.

Hair Styles

In 2019, Governor Newsom signed Senate Bill 188, which prohibits discrimination based on one's natural hair. Known as the CROWN Act (Create a Respectful and Open Workplace for Natural Hair), it prohibits discrimination in employment based on natural hair and hairstyles historically associated with race, including hairstyles such as afros, braids, locks, and twists. SB 188 applies to public employers. Dress code policies, at least as far as they prohibit protected hairstyles, are not enforceable. The law was amended in 2024 (AB 1815) to clarify and expand the definition of race in California's anti-discrimination laws to explicitly state that race includes traits associated with race, such as hair texture and protective hairstyles. It removed the previously vague term "historically" to avoid confusion. If it has been a while since your employer's dress code policy was updated, this may be an area to revise. Your employee organization will want to ensure any policy revisions are consistent with employee rights under the CROWN Act.

Safety
rules may
limit facial hair

Facial Hair

Employers may still maintain grooming policies that require employees to secure their hair for safety or hygienic reasons. Facial hair is one common area for concern. If you are required to wear a respirator to perform your job duties, your employer may maintain a policy that requires you to shave any facial hair to ensure an adequate fit for safety reasons.

Likewise, policies may prohibit employees who use heavy machinery from wearing dangling clothing or jewelry that can get caught in the equipment.

Tattoos, Piercings, and Jewelry

One controversial area of dress code policies is tattoos, piercings, and jewelry. An employer can adopt new standards that are more restrictive than when you were hired. In other words, the employer can require you to change the way you have been appearing. For example, a policy might prohibit visible tattoos, large earrings, and piercings on the nose, tongue, eyebrow, or lips. This type of prohibition is generally lawful, even if current employees already have them. Even if your management knew about your nose rings when they hired you, they can establish a "no

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facial piercings” policy. However, the employee organization can negotiate over the change, including to “grandfather” people who already have certain body art (facial tattoos) prior to implementation. Absent this, you can be told to take the rings out – and cover the tattoos.

Offensive or Revealing Clothing or Scents

Employers often try to include language to limit distractions caused by inappropriate dress. Sometimes the language is too general or vague. The better policies identify specific examples. This may include leggings or yoga pants, athletic shoes (except during break times), flip-flops, or beachwear. Policies often prohibit sexually revealing clothing, such as spaghetti straps, shirts with low-cut necklines, mini-skirts, and an appearance that reveals undergarments. Policies also typically prohibit clothing with offensive or discriminatory messages, gang-related references, and strong fragrances that have odors that may interfere with others nearby.

Reasonable Accommodation

Regardless of the language of the policy, employers may have to grant an exception from the policy to accommodate an employee’s disability or religion (e.g., a Christian cross, a Jewish yarmulke, a Muslim hijab, a Sikh turban or beard). The employer can refuse to provide a specific accommodation request if it poses an undue burden. An employer may bar an employee’s religious dress or grooming practice based on workplace safety, security, or health concerns, but only if the circumstances actually pose an undue hardship on the operation of the employer’s business in any given situation. However, neither co-worker disgruntlement nor customer preferences constitute undue hardship. If you need accommodation, contact Human Resources to request accommodation before dressing, grooming, or otherwise acting inconsistent with the employer’s policy.

Business Casual

Many policies allow employees to wear “business casual” attire, such as on the last day of the work week or at certain events. Examples include jeans (no holes, bleach,

or torn), polos, and flats. The policy should be clear about what is considered acceptable “business casual” attire, and when the more lenient “business casual” standards apply. Policies often say the employee shall still maintain a professional appearance that is conducive to the event or occasion. However, good policies will cite specific examples to be clear.

Management’s Ability to Send you Home

Be sure to check the language on consequences for non-compliance. Some employers include language that allows management to send the employee home without pay. The employee organization should oppose such language. While it is within management’s prerogative to tell an employee they must go home and change, the employee should not lose pay without due process. One supervisor’s opinion about appropriate attire should not be the basis for a suspension. However, repeated violations of the same standard may amount to “not reporting in work-ready condition.” The important point is fair notice; employees should be informed when specific grooming or attire violates policy and given the opportunity to correct it prior to the employee losing pay. Ideally, the policy should say this instruction shall be done discreetly and privately. It should also include language about subsequent violations being subject to progressive discipline.

Conclusion

Your employer does have the right to enforce standards of dress and hygiene in the workplace, but you retain your right to free expression away from work. Your employee organization can play a significant role in making sure that any dress code policy is specific and not too vague, and that workers have proper notice as to what standards are or are not appropriate for their workplaces. Prohibited dress should be clearly identified in the policy and not subject to too much managerial discretion. The employee organization can also use its bargaining power to ensure that the policy does not place unreasonable restrictions on employees’ personal lives or self-expression, and to ensure that due process and progressive discipline are followed. ...

News Release - CPI Data

The U.S. Department of Labor, Bureau of Labor Statistics, publishes monthly consumer price index figures that look back over a rolling 12-month period to measure inflation.	3.8% - CPI for All Urban Consumers (CPI-U) Nationally (Apr)	3.8% - CPI-U for San Francisco Bay Area (from Apr)
	3.5% - CPI-U for the West Region (from Apr)	3.1% - CPI-U for the Riverside Area (from Mar)
	3.7% - CPI-U for the Los Angeles Area (from Apr)	3.2% - CPI-U for San Diego Area (from Mar)



Heat Illness Prevention

The U.S. Department of Labor (DOL) and Occupational Safety & Health Administration (OSHA) have published best practices to prevent heat illness at work. The best practices are designed to help employers reduce the risk of heat-related illness for workers as we head deep into the summer months. Suggestions include:

Train All Workers. Employers should train supervisors and workers on how to control and recognize heat hazards. This includes first aid.

Follow the 20% Rule. On a worker's first day of working in extreme heat, no more than 20% of the duration of their shift should be at full intensity in the heat. The duration of time at full intensity should be increased by no more than 20% a day until workers are used to working in the heat.

Remember These Three Words: "Water. Rest. Shade." Workers should drink one cup of water every twenty minutes while working in the heat to stay hydrated. When the temperature is high, employers should have workers take frequent rest breaks in shaded, cool, or air-conditioned areas to recover from the heat.

Workers New to the Job are at Higher Risk. Workers who are new or returning to work in warm or hot environments need more time to adapt. More than 75% of heat-related fatalities occur during a worker's first week, which is why "acclimatization" – the process of building resistance to increased temperatures – is so important. Learn how to protect new workers from heat-related illnesses and monitor them until they are acclimated.

Hazardous Heat Exposure Can Happen Indoors Too.

Though heat stress is typically related to outdoor work environments, and construction workers account for about one-third of heat-related deaths, workers in hot indoor environments like kitchens, laundry, warehouses, and electrical utilities are also at risk.

Engineering Controls and Modified Work Practices Can Reduce the Risk of Heat Illness.

Employers should consider reducing physical activity as much as possible by planning for the work ahead and rotating job functions among workers to help minimize exertion.

If you encounter unsafe heat conditions, tell your employer immediately. If nothing changes, contact your professional staff for help, or call OSHA at 1-800-321-6742 (OSHA). ...

75% of
heat deaths
occur in week one

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Questions & Answers about Your Job

*Each month we receive dozens of questions about your rights on the job.
The following are some GENERAL answers.
If you have a specific problem, talk to your professional staff.*

Question: My supervisor wants to talk to me. Do I have the right to a union representative? I believe it is about my work performance and to give me a performance evaluation. I am not comfortable meeting alone.

Answer: If your supervisor is meeting to give you a performance evaluation or to comment on your work performance, then you do not have a legal right to union representation. However, you can request that someone from the employee organization be present as a witness to the meeting and, if the supervisor agrees, you can ask an

association officer to accompany you if they are free.

If the purpose of the meeting is to ask questions about your work performance or other matters that could reasonably lead to discipline, or if the meeting turns into such questioning, then you do have a right to union representation. This is commonly referred to as Weingarten rights after a 1975 U.S. Supreme Court decision that established the right to union representation during personnel interrogations.

If you find yourself in this situation, ask to stop or postpone the meeting until your union representation is present. If they do not stop questioning, continue to repeat that you



will respond once you have had a chance to speak with your union representation. Ask if you can contact your Association first for guidance before answering. Also ask if your responses could lead to discipline.

If you are given a direct order to respond, or you are told your answers will not be used against you, note your objection and state that you are not waving your right to a representative, but you will comply with the order. In any event, do not leave the meeting until released by your supervision. Once your supervisor has released you from the meeting, contact your Association or professional staff, who can help you identify if your Weingarten rights were violated and, if so, what to do next. You may be able to challenge any discipline you receive based on any unlawful questioning.

Question: Is there a maximum number of weeks that FMLA caps out every fiscal year? If the max is reached, am I able to use other PTO to supplement the FMLA leave? If so, am I able to choose which PTO I can use (Sick, Vacation, Holiday)? Is there any reason that HR could deny FMLA leave? If so, what are some examples?

Answer: The Federal Family Medical Leave Act ("FMLA") of 1993 provides up to 12 weeks of job protected leave during a 12-month period for qualified medical and family reasons (up to 26 weeks for military caregiver leave). It is most often used for an employee's

serious health condition, or for the employee's immediate family member's serious health condition. The FMLA has several finer points when it comes to various calculations. For example, the FMLA permits employers to choose the 12-month period for determining the employee's leave entitlement. It may be a calendar year, a fixed 12-month period for all employees (e.g., a fiscal year), 12 months measured forward from the first date leave is used, or a rolling backwards 12-month period from the date leave is used. Check your employer's policy to see what method your employer uses to calculate the 12-month period.

You may be able to use other forms of paid leave once your FMLA leave runs out. FMLA leave is unpaid, but employer policies often allow or require employees to use their paid leave concurrently with any FMLA-approved absence. This means an employee is typically paid during some, or all, of their FMLA leave by using their own leave accruals. Whether accrued paid leave is run concurrently or can be preserved for when your FMLA leave ends is determined by the law, the employer's leave policy, and the MOU. If you do have paid leave available after the 12 weeks, you can use that leave consistent with the employer's rules for using that type of leave. If the leave is for your own serious health condition, your employer may charge your sick leave if you have any on the books, unless you are receiving paid disability benefits.

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The employer cannot deny FMLA leave if you qualify. The employer typically wants to count your absences as FMLA if possible. However, the employer may tell you that your leave request does not qualify under the FMLA. Examples may include: (1) You have already exhausted your 12 weeks in the 12-month period, (2) you have not been employed for at least 12 months, (3) you have not performed at least 1,250 hours of service during the 12-month period immediately preceding the commencement of leave, (4) you are employed at a worksite that has less than 50 employees within a 75-mile radius, (5) your reason for leave is not FMLA-qualifying, (6) your health condition does not involve inpatient care or continuing treatment by a health care provider, (7) the family member you want leave to care for is not a child, parent, or spouse, (8) you requested intermittent leave or a reduced leave schedule and your medical documentation does not support it, (9) you did not request leave 30 days in advance or as soon as practicable if the need for leave is unforeseeable, (10) you have not provided certification from a health care provider when you gave notice of the need for leave or within five business days thereafter, and you have not cured any deficiency within seven calendar days, (11) the employer has reason to doubt the validity of the certification and it is not cured by a second health care provider designated by the employer, and (12) you have not recertified the serious health condition once every six months.

If you are told your leave does not qualify under the FMLA, be sure to ask if it qualifies under the California Family Rights Act of 1993 (“CFRA”). CFRA can apply more broadly in situations where the FMLA might not apply. For example, CFRA applies to all public sector workers, regardless of the employer’s size. If you do not qualify for CFRA leave, you might request a protected leave of absence under the Federal Americans with Disabilities Act of 1990 (“ADA”). Unpaid leave is a form of reasonable accommodation under the ADA. You may be able to use your paid leave accruals, if any, concurrent with leave provided as a medical accom-

modation.

Question: Can I file an anonymous complaint? I recently discovered financial mismanagement by one of our executives. The evidence points to financial fraud at the highest levels. I believe this information needs to see the light of day. However, I am fearful of retaliation if I report this through our normal chain-of-command and employer policies. I am thinking of sending an anonymous letter to our elected officials with no return address. I thought I would check with you first.

Answer: There are laws protecting those who report violations of state and federal law, and, very often, there are local ordinances, rules, and policies granting similar protections for those exposing violations of local ordinances and policies. See for example Labor Code §1102.5, which protects from retaliation those who have reasonable cause to believe that the information discloses a violation of state or federal statute, or a violation of or noncompliance with a local, state, or federal rule or regulation, regardless of whether disclosing the information is part of your job duties.

You may not want to file an anonymous complaint if by otherwise disclosing the information you gain legal protection from retaliation. However, it is understandable if you want to avoid the chance of retaliation in the first place, rather than having to pursue a possible lawsuit. For that reason, many cities, counties, and districts have systems in place to receive anonymous complaints, as do many state and federal agencies.

If you believe the executive’s financial mismanagement is a crime (e.g., theft or embezzlement), you may want to report it directly to law enforcement or the District Attorney. If federal or state funds are involved, there may be watchdog agencies overseeing those funds you can also report to. You can send an anonymous letter to your elected officials or have someone do so on your behalf, but there is no way to guarantee anonymity. This is especially true if you

are one of a very small group of people who would have direct knowledge of this violation. The executive may suspect you, or be able to figure out it was you, from a process of elimination.

If you make your complaint anonymously and they do retaliate, you may not be able to prove it was retaliation covered by whistleblower laws if you cannot prove that they knew or suspected that you were the whistleblower. If you openly report suspected fraud, you will have an easier time establishing whistleblower protection and you may be in a better position to warn them against retaliation as soon as any sign of it emerges.

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Reclaim Your Day:

Tactics for Successful Time Management



Struggling to meet deadlines, overlooking emails, forgetting to pick up the kids...these are just a few signs that your time management could use a refresh. We carry heavy responsibilities, and public servants often feel particular strain.

During a [NextGen online training](#) titled “Tactics for Successful Time Management,” Kristen Shattuck, Director of Training and Facilitation at Careerstone Group, offered specific techniques to help you reclaim your schedule. Forget pie-in-the-sky suggestions — i.e., “be positive.” Shattuck explained, for example, how to say “no” without giving offense. How many times have we yearned to do that?

Below are insights from the discussion, among other helpful resources. Tomorrow might be a better day.

First, let’s be realistic.

There are some people and events you must make time for, such as:

-  Requests from managers, executives, etc.
-  Syncs with new team members
-  People to whom you owe favors
-  Meetings with key stakeholders
-  Meetings with direct reports
-  Important personal relationships
-  Critical/time sensitive initiatives
-  Self-care and wellness

But you also must set boundaries whenever possible. **Follow the P.D.A. Rule:**

P	Positive Response	<i>I'd love to chat with you more about this...</i>
D	Decline	<i>...but my to-do list is packed today.</i>
A	Alternate Solution	<i>Is there any way we can follow up first thing tomorrow? Or is this something I can answer via a quick email?</i>

“Should you find yourself in a chronically leaking boat, energy devoted to changing vessels is likely to be more productive than energy devoted to patching leaks.”

— Warren Buffet

The Neutral “No”

Rejecting a request on its face (e.g., giving a Bad “No”) may feel empowering, but it probably won’t help you in the long run. Try a **Neutral “No”** instead to help manage your time without offending managers or colleagues. In other words:

1. Ask for more information.

- What specifically would you like me to do?
- What are you hoping to achieve?
- On a scale of 1 to 10, how critical does this feel to you?
- If we had to make tradeoffs to fulfill your request, is there anything specific you’d be OK to sacrifice?

2. Consider the impact of the request.

- Is this within the project’s current scope?
- If not, how will the request affect budget, deadlines, other resources?

3. Be steady, uninflected and clear.

- Don’t be harsh, combative, apologetic, reluctant or overly nice.
- Avoid personal bias when deciding.
- Respond after only fully assessing importance and impacts.



8 Common Workplace Distractions

-  Internet
-  Social Media
-  Clutter
-  Snack Breaks
-  Other People
-  Meetings
-  Email
-  Noise

Time Management Tips

- Create and keep a schedule.
- Set daily priorities.
- Use a “to-do” list.
- Do a “desktop audit” to clear away clutter.
- Manage your energy.
- Beware of technology time stealers.
- Ask for help (we all need to).
- Communicate boundaries.
- Consolidate tasks and trips.
- Block time for specific projects/work.
- Break big jobs into manageable pieces.
- Be punctual for both in-person and digital meetings.

“Everyone thinks they have important insider info. Sometimes it can wait.”

— NextGen attendee

Ever hear of a “done” list?

It’s a psychological trick to help us feel more positive and accomplished. Keep track of tasks you’ve already finished, then cross them off your list. Really, no task is too small. Did you start your laptop in the morning? Join a meeting on time? Get up and stretch? Those efforts count.



Daily Priorities

It helps to start each workday by establishing your most immediate priorities, especially if your to-do list is long or your tasks are complex.



First, list the 5 most important tasks for today/tomorrow.



Second, rank them in their order of importance.



Third, determine the time and resources each requires.



Fourth, decide what energy level (high or low) each task needs.



Fifth, try developing a “do-not-do” list for the day, to help you focus.

Take Charge of Your Email

Email can be one of our greatest time management challenges; even friendly, low-pressure messages are disruptive. There are ways to control your inbox, though. For instance:

- Schedule specific times to review/respond (i.e., beginning and end of your workday).
- Limit how much time you spend on emails (say, no more than 30 minutes per time period).
- Keep a “reply by” folder so you organize and answer messages on time.
- Instantly respond to emails that require a one-minute (or less) reply.
- Create response templates for different types of messages.
- Know your email etiquette: standards for subject lines, thank you’s, etc.
- Unsubscribe from newsletters and other mailings that clutter your inbox.

Break Your Cell Phone Dependency

Search the internet, and you’ll find advice on using cell phones as a productivity tool. That’s well and good. But for most of us, electronic devices are more disruptive than helpful. Below are ways (not an exhaustive list, mind you) to rein in your cell phone dependency.

- **Set your phone to grayscale.** This setting removes bright colors, turning all content to a less interesting black and white.
- **Enable the screen-time tracking feature.** Learn how much time you spend on specific apps/websites, and set limits.
- **Hide social media and email apps.** Move them to a folder off your home screen (or perhaps delete them).
- **Lower screen brightness.** The darker your screen, the less appealing it tends to be.
- **Make your phone less accessible.** Keep it out of sight, or at least face-down on your desk, and turn off the ringer.
- **Reduce notifications.** Disable any non-essential alert (i.e., sounds when new emails arrive).
- **Invest in apps that restrict your access.** Not all apps are bad: Some limit your access to certain apps at certain times, which helps you focus.



“I get so many emails throughout the day. I changed the settings in my inbox so that emails from my supervisor show as a bright color so I don’t miss them.”

— NextGen attendee

Get Ready for Prime Time

Some of us thrive first thing in the morning; other people find their groove at 5:00 p.m. So think about when you're most productive, and use the following tips to make those times most effective.

- Dedicate your high-energy hours to important tasks that need greater effort and focus.
- Save routine work for your low-energy periods.
- Find ways to stretch your periods of greatest energy.
- Strive to keep interruptions at a minimum — or eliminate them completely.
- Use energizers to give yourself a boost when you need to concentrate, particularly if your schedule is structured around other people's needs.
- Boost your energy levels with proper diet and good physical fitness.
- Head off stress or tension you might feel as a result of meeting others' needs.
- Plan each day to take advantage of time when agencies and stores are open and when managers, colleagues, etc. are available to you.

Goals are important to help you plan.

Ask yourself:

- What do I **need** to achieve?
- What do I **want** to achieve?
- **When** do I need to achieve them?

Consider:

What are my time management challenges?	
What strategies are effective for me?	
What new strategies should I try?	

For more tips on managing your time, [click here](#) to watch the NextGen session on-demand.

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For Feds, By Feds

To learn more about how to succeed in the workplace, register to get updates for the upcoming [NextGen Virtual Summit](#).