

Instructions for the Harassment, Discrimination and Retaliation Prevention Policy - For Employers With Less Than Five Employees

California law requires companies to have a written harassment, discrimination and retaliation prevention policy. This policy is for use in California. Employers with operations in multi-states should review the specific requirements of those states. For more information, refer to the included *About this Policy* information.

You may customize this policy with your company name and logo. It also contains different sections that you must customize to your business.

Complaint Process

On page 2, paragraph one, line two: Enter the title(s) of those persons who employees can go to with a harassment, discrimination or retaliation complaint. Employees must be given **one or more alternatives** and cannot be required to only go to their immediate supervisor.

The person(s) listed may be any designated company representative, such as: an HR manager; office manager; personnel manager; EEO officer; president; designated ombudsperson or any other designated Company representative. Include the name or title of that person in your policy. You could also set up a complaint hotline with the phone number in your policy.

On page 2, paragraph one, line four: Enter the title of the person at your company who is responsible for receiving and processing complaints from employees and supervisors and who can assist employees and supervisors.

This person is typically someone in your Company with day-to-day personnel responsibilities, such as an HR Manager or office manager. It may also be a designated EEO officer, ombudsperson, investigative officer or a high-level company officer, such as your president or owner.

Note: This will also fill in the field on page 2, paragraph four, line two. Supervisors are required to report any complaints of misconduct that they receive.

Distribution of Policy and Confirmation of Receipt

Require each employee to sign, date and return the Confirmation of Receipt of Harassment, Discrimination and Retaliation Prevention Policy, stating that he/she has received, read and is aware of your Company's policy. Retain signed form in each employee's personnel file.

If you use the electronic signature option, you will need an e-signature tool (e.g. Adobe Reader DC). To ensure authenticity, we recommend that you have each employee create their personal e-signature with the password-protect option.

You must distribute your harassment, discrimination and retaliation prevention policy using one or more of the following methods:

- Printing and providing a copy to all employees with an acknowledgment form for the employee to sign and return;
- Sending the policy via e-mail with an acknowledgment return form;
- Posting current versions of the policy on a company intranet with a tracking system that ensures all employees have read and acknowledged receipt of the policies;
- Discussing the policy upon hire and/or during a new hire orientation session; and/or
- Any other way that ensures employees receive and understand the policy.

If your workforce at any facility or establishment contains 10 percent or more of persons who speak a language other than English as their spoken language, you must translate your policy into every language spoken by at least 10 percent of the workforce.

About This Policy - For Employers With Less Than Five Employees



California law requires companies to have a written harassment, discrimination and retaliation prevention policy.¹

Failure to take affirmative steps to prevent harassment, discrimination and retaliation is a violation of state law.

Sexual harassment is simply one form of unlawful harassment. Harassment and discrimination because an employee is a member of any protected class is prohibited. Protected classes under California law include sex (including pregnancy, childbirth, breastfeeding or related medical conditions), race, religion (including religious dress and grooming practices), color, gender (including gender identity and gender expression), national origin (including language use restrictions and possession of a driver's license issued under Vehicle Code section 12801.9), ancestry, physical or mental disability, medical condition, genetic information, marital status, registered domestic partner status, age, sexual orientation, and military and veteran status.

The number of employees your Company has determines which laws apply and what information you must provide.

Number of Employees	By Law, You Must
One or more	Comply with laws prohibiting harassment in the workplace (California's Fair Employment and Housing Act). Provide information about harassment, discrimination and the company's complaint process. Prohibit retaliation for bringing complaints Comply with California's Fair Pay Act, which prohibits employers from paying employees less than a member of the opposite sex for "substantially similar work," when viewed as a composite of skill, effort and responsibility performed under similar working conditions. Employers cannot prohibit employees from discussing wages, disclosing their own wages or asking about the wages of others. However, the employer is not obligated to disclose wages. ²
Five or more	Also comply with state laws regarding discrimination and reasonable accommodation of religion and disabilities
15 or more	Also comply with federal laws prohibiting discrimination, harassment and reasonable accommodation

Job applicants, employees and unpaid interns are protected from discrimination and harassment. Volunteers and people providing services under a contract are also protected from harassment.

You must take steps to prevent harassment of your workers by supervisors, managers, co-workers and third parties who your workers come into contact with. A company may be responsible for the acts of non-employees if they harass its employees, and the employer, or its agents or supervisors, knows or should have known of the conduct and fails to take immediate and appropriate corrective action.

Your policy should encourage employees to report any incidents of racial, sexual or other harassment or discrimination. You should customize your policy to communicate your company's specific complaint process.

¹Cal. Govt. Code sec. 12950; 2 CCR. sec. 11023

²Lab. Code sec. 1197.5

About This Policy - For Employers With Less Than Five Employees

To minimize liability and comply with California law, your Company's harassment, discrimination and retaliation prevention policy must:

- Be in writing
- Prohibit harassment, discrimination and retaliation
- Define harassment
- Specifically prohibit sexual harassment
- List all categories that are protected from discrimination and harassment under the law
- Indicate that the law prohibits supervisors, managers, coworkers and third parties with whom the employee comes into contact from engaging in harassment
- Establish effective internal complaint procedures that ensure complaints receive:
 - An employer's designation of confidentiality, to the extent possible;
 - A timely response;
 - Impartial and timely investigations by qualified personnel;
 - Documentation and tracking for reasonable progress;
 - Appropriate options for remedial actions and resolutions; and
 - Timely closures.
- Provide a complaint mechanism that doesn't require an employee to complain directly to his or her immediate supervisor, but allows alternative methods including, but not limited to:
 - Direct communication with a designated company representative, such as an HR manager;
 - A complaint hotline;
 - Access to an ombudsperson; and/or
 - Identification of the California Department of Fair Employment and Housing and Federal Equal Employment Opportunity Commission as additional avenues to bring complaints.
- Instructs supervisors to report complaints of misconduct to a designated company representative
- Indicates that when an employer receives allegations of misconduct it will conduct a fair, timely and thorough investigation that provides all parties appropriate due process and reaches reasonable conclusions based on the evidence collected
- States that confidentiality will be kept by the employer to the extent possible, but does not promise complete confidentiality
- Indicates that if at the end of the investigation misconduct is found, appropriate remedial action will be taken
- Makes clear that employees will not be exposed to retaliation for lodging a complaint or participating in a workplace investigation

Your Company should use the utmost care in drafting a policy prohibiting harassment, discrimination and retaliation in the workplace. The prevailing laws are very specific and sharply limit the latitude in the language that can be used in such a policy.³

Distribution and Confirmation of Receipt

Require each employee to sign and return a Confirmation of Receipt of Harassment, Discrimination and Retaliation Prevention Policy, stating that he/she has received, read and is aware of your Company's policy. Retain signed form in each employee's personnel file.⁴ Refer to the *Instructions for the Harassment, Discrimination and Retaliation Prevention Policy* for more information.

³ 2 CCR sec. 11023

⁴ 2 CCR sec. 11024