



## LABOR AND EMPLOYMENT

### Harassment Policies: A Quick Checklist

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Harassment (including sexual harassment) of an employee by an employer or by its management and supervisory staff and all other personnel is prohibited under both federal and California law. An employer is required not only to refrain from engaging in or endorsing such conduct, but also must adopt and disseminate policies setting forth its prohibitions against harassment in the workplace. The employer must also post notices regarding such policies throughout the workplace. The adequacy or inadequacy of such policies and notices may be crucial in investigations and prosecutions by the California Department of Fair Employment and Housing and other federal and state administrative agencies. It may also play a critical role in defending against litigation charging sexual or other harassment under Title VII, FEHA, and other applicable law.

The foregoing is the subject of a large body of federal and California statutory and decision law and is not addressed here. The purpose of this Bulletin is to provide employers with a quick checklist of critical components that should be included in their anti-harassment policies. All employers are encouraged to consult with legal counsel in connection with adopting, revising and disseminating anti-harassment policies.

The following are recommended components of an employer's Harassment Policy:

1. A statement that the employer is committed to providing a workplace free of unlawful harassment, including sexual harassment. A statement that the employer prohibits and will not tolerate harassment of applicants and employees by co-workers, managers or supervisors.
2. The description or list of protected categories should match the description in the employer's other policies, especially the equal employment opportunity policy. For reference, a typical list might include: Race, color, national origin, ancestry, sex (including pregnancy, childbirth or related medical conditions), sexual orientation, age (40 and over), religion, creed, physical or mental disability, legally protected medical condition, marital status, citizenship status, military service status, or other basis protected by law.
3. A statement prohibiting harassment of non-employees who have a business, service or professional relationship with the organization.
4. A section defining, describing and giving examples of prohibited harassment, including sexual harassment.
5. A statement encouraging employees to report incidents of harassment. The statement should also designate an identifiable person responsible for investigating the reports.
6. A requirement that supervisors and managers who receive reports of harassment or who are otherwise aware of incidents of harassment





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report the matter promptly to the person responsible for investigations.

7. A clear statement that employees may bypass a supervisor or the chain of command if a supervisor is alleged to be responsible for the harassment.
8. A statement that the employer will investigate complaints thoroughly and promptly. A statement that investigations will be conducted in as confidential a manner as is consistent with a full, fair and proper investigation and due process requirements. A statement that the employer will advise the victim and (where appropriate) the accused of the results of the investigation.
9. A statement prohibiting retaliation.
10. A statement that employees who violate the policy will be disciplined and the range of discipline that may be taken.
11. As an option, the policy may include information that is equivalent to that presented in the Department of Fair Employment and Housing information sheet regarding harassment. This may be helpful in instances where an employee alleges the employer did not comply with the DFEH information requirement.

The foregoing is not intended to be exhaustive and additional requirements may apply, including regulations governing posting of anti-harassment notices. For more detailed information, employers should consult with legal counsel.

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