



CALIFORNIA LAW PROHIBITS WORKPLACE DISCRIMINATION AND HARASSMENT

THE CALIFORNIA DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING (DFEH) ENFORCES LAWS THAT PROTECT YOU FROM ILLEGAL DISCRIMINATION AND HARASSMENT IN EMPLOYMENT BASED ON YOUR ACTUAL OR PERCEIVED:

- ANCESTRY
- AGE (40 and above)
- COLOR
- DISABILITY (physical and mental, including HIV and AIDS)
- GENETIC INFORMATION
- GENDER IDENTITY, GENDER EXPRESSION
- MARITAL STATUS
- MEDICAL CONDITION (genetic characteristics, cancer or a record or history of cancer)
- MILITARY OR VETERAN STATUS
- NATIONAL ORIGIN (includes language use and possession of a driver's license issued to persons unable to prove their presence in the United States is authorized under federal law)
- RACE
- RELIGION (includes religious dress and grooming practices)
- SEX/GENDER (includes pregnancy, childbirth, breastfeeding and/or related medical conditions)
- SEXUAL ORIENTATION

THE CALIFORNIA FAIR EMPLOYMENT AND HOUSING ACT (GOVERNMENT CODE SECTIONS 12900 THROUGH 12996) AND ITS IMPLEMENTING REGULATIONS (CALIFORNIA CODE OF REGULATIONS, TITLE 2, SECTIONS 11000 THROUGH 11141):

- ① Prohibit harassment of employees, applicants, unpaid interns, volunteers, and independent contractors by any persons and require employers to take all reasonable steps to prevent harassment. This includes a prohibition against sexual harassment, gender harassment, harassment based on pregnancy, childbirth, breastfeeding and/or related medical conditions, as well as harassment based on all other characteristics listed above.
- ② Require that all employers provide information to each of their employees on the nature, illegality, and legal remedies that apply to sexual harassment. Employers may either develop their own publications, which must meet standards set forth in California Government Code section 12950, or use a brochure from DFEH.
- ③ Require employers with 50 or more employees and all public entities to provide sexual harassment and abusive conduct prevention training for all supervisors.
- ④ Prohibit employers from limiting or prohibiting the use of any language in any workplace unless justified by business necessity. The employer must notify employees of the language restriction and consequences for violation. Also prohibits employers from discriminating against an applicant or employee because they possess a driver's license issued to a person who is unable to prove that their presence in the United States is authorized under federal law.
- ⑤ Require employers to reasonably accommodate an employee, unpaid intern, or job applicant's religious beliefs and practices, including the wearing or carrying of religious clothing, jewelry or artifacts, and hair styles, facial hair, or body hair, which are part of an individual's observance of their religious beliefs.
- ⑥ Require employers to reasonably accommodate employees or job applicants with disabilities to enable them to perform the essential functions of a job.

- ⑦ Permit job applicants, unpaid interns, volunteers, and employees to file complaints with DFEH against an employer, employment agency, or labor union that fails to grant equal employment as required by law.
- ⑧ Prohibit discrimination against any job applicant, unpaid intern, or employee in hiring, promotions, assignments, termination, or any term, condition, or privilege of employment.
- ⑨ Require employers, employment agencies, and unions to preserve applications, personnel records, and employment referral records for a minimum of two years.
- ⑩ Require employers to provide leaves of up to four months to employees disabled because of pregnancy, childbirth, or a related medical condition.
- ⑪ Require an employer to provide reasonable accommodations requested by an employee, on the advice of their health care provider, related to their pregnancy, childbirth, or a related medical condition.
- ⑫ Require employers of 50 or more persons to allow eligible employees to take up to 12 weeks leave in a 12-month period for the birth of a child; the placement of a child for adoption or foster care; for an employee's own serious health condition; or to care for a parent, spouse, or child with a serious health condition. The law also requires employers to post a notice informing employees of their family and medical leave rights.
- ⑬ Require employment agencies to serve all applicants equally, refuse discriminatory job orders, and prohibit

employers and employment agencies from making discriminatory pre-hiring inquiries or publishing help-wanted advertisements that express a discriminatory hiring preference.

- ⑭ Prohibit unions from discriminating in member admissions or dispatching members to jobs.
- ⑮ Prohibit retaliation against a person who opposes, reports, or assists another person to oppose unlawful discrimination.

FILING A COMPLAINT

The law provides for remedies for individuals who experience prohibited discrimination or harassment in the workplace. These remedies include hiring, front pay, back pay, promotion, reinstatement, cease-and-desist orders, expert witness fees, reasonable attorney's fees and costs, punitive damages, and emotional distress damages.

Job applicants, unpaid interns, and employees: If you believe you have experienced discrimination or harassment you may file a complaint with DFEH. Independent contractors and volunteers: If you believe you have been harassed, you may file a complaint with DFEH.

Complaints must be filed within one year of the last act of discrimination/harassment or, for victims who are under the age of 18, not later than one year after the victim's eighteenth birthday.

If you have a disability that prevents you from submitting a written pre-complaint form on-line, by mail, or email, DFEH can assist you by scribing your pre-complaint by phone or, for individuals who are Deaf or Hard of Hearing or have speech disabilities, through the California Relay Service (711), or call us through your VRS at (800) 884-1684 (voice).

To schedule an appointment, contact the Communication Center at (800) 884-1684 (voice or via relay operator 711) or (800) 700-2320 (TTY) or by email at contact.center@dfeh.ca.gov.

DFEH is committed to providing access to our materials in an alternative format as a reasonable accommodation for people with disabilities when requested.

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DFEH-E07P-ENG / May 2017

FOR MORE INFORMATION

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Also find us on:



Government Code section 12950 and California Code of Regulations, title 2, section 11013, require all employers to post this document. It must be conspicuously posted in hiring offices, on employee bulletin boards, in employment agency waiting rooms, union halls, and other places employees gather. Any employer whose workforce at any facility or establishment consists of more than 10% of non-English speaking persons must also post this notice in the appropriate language or languages.



SEXUAL HARASSMENT

THE FACTS

Sexual harassment is a form of discrimination based on sex/gender (including pregnancy, childbirth, or related medical conditions), gender identity, gender expression, or sexual orientation. Individuals of any gender can be the target of sexual harassment. Unlawful sexual harassment does not have to be motivated by sexual desire. Sexual harassment may involve harassment of a person of the same gender as the harasser, regardless of either person's sexual orientation or gender identity.

THERE ARE TWO TYPES OF SEXUAL HARASSMENT

- 1 "Quid pro quo" (Latin for "this for that") sexual harassment is when someone conditions a job, promotion, or other work benefit on your submission to sexual advances or other conduct based on sex.
- 2 "Hostile work environment" sexual harassment occurs when unwelcome comments or conduct based on sex unreasonably interfere with your work performance or create an intimidating, hostile, or offensive work environment. You may experience sexual harassment even if the offensive conduct was not aimed directly at you.

The harassment must be severe or pervasive to be unlawful. That means that it alters the conditions of your employment and creates an abusive work environment. A single act of harassment may be sufficiently severe to be unlawful.

If you have a disability that prevents you from submitting a written pre-complaint form on-line, by mail, or email, the DFEH can assist you by scribing your pre-complaint by phone or, for individuals who are Deaf or Hard of Hearing or have speech disabilities, through the California Relay Service (711), or call us through your VRS at (800) 884-1684 (voice).

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DFEH-185P-ENG / April 2017

BEHAVIORS THAT MAY BE SEXUAL HARASSMENT:

- 1 Unwanted sexual advances
- 2 Offering employment benefits in exchange for sexual favors
- 3 Leering; gestures; or displaying sexually suggestive objects, pictures, cartoons, or posters
- 4 Derogatory comments, epithets, slurs, or jokes
- 5 Graphic comments, sexually degrading words, or suggestive or obscene messages or invitations
- 6 Physical touching or assault, as well as impeding or blocking movements

Actual or threatened retaliation for rejecting advances or complaining about harassment is also unlawful.

Employees or job applicants who believe that they have been sexually harassed or retaliated against may file a complaint of discrimination with DFEH within one year of the last act of harassment or retaliation. DFEH serves as a neutral fact-finder and attempts to help the parties voluntarily resolve disputes. If DFEH finds sufficient evidence to establish that discrimination occurred and settlement efforts fail, the Department may file a civil complaint in state or federal court to address the causes of the discrimination and on behalf of the complaining party. DFEH may seek court orders changing the employer's policies and practices, punitive damages, and attorney's fees and costs if it prevails in litigation. Employees can also pursue the matter through a private lawsuit in civil court after a complaint has been filed with DFEH and a Right-to-Sue Notice has been issued.

FOR MORE INFORMATION

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EMPLOYER RESPONSIBILITY & LIABILITY

All employers, regardless of the number of employees, are covered by the harassment provisions of California law. Employers are liable for harassment by their supervisors or agents. All harassers, including both supervisory and non-supervisory personnel, may be held personally liable for harassment or for aiding and abetting harassment. The law requires employers to take reasonable steps to prevent harassment. If an employer fails to take such steps, that employer can be held liable for the harassment. In addition, an employer may be liable for the harassment by a non-employee (for example, a client or customer) of an employee, applicant, or person providing services for the employer. An employer will only be liable for this form of harassment if it knew or should have known of the harassment, and failed to take immediate and appropriate corrective action.

Employers have an affirmative duty to take reasonable steps to prevent and promptly correct discriminatory and harassing conduct, and to create a workplace free of harassment.

A program to eliminate sexual harassment from the workplace is not only required by law, but it is the most practical way for an employer to avoid or limit liability if harassment occurs.

ALL EMPLOYERS MUST TAKE THE FOLLOWING ACTIONS TO PREVENT HARASSMENT AND CORRECT IT WHEN IT OCCURS:

- ① Distribute copies of this brochure or an alternative writing that complies with Government Code 12950. This pamphlet may be duplicated in any quantity.
- ② Post a copy of the Department's employment poster entitled "California Law Prohibits Workplace Discrimination and Harassment."
- ③ Develop a harassment, discrimination, and retaliation prevention policy in accordance with 2 CCR 11023. The policy must:
 - Be in writing.
 - List all protected groups under the FEHA.
 - Indicate that the law prohibits coworkers and third parties, as well as supervisors and managers with whom the employee comes into contact, from engaging in prohibited harassment.
 - Create a complaint process that ensures confidentiality to the extent possible; a timely response; an impartial and timely investigation by qualified personnel; documentation and tracking for reasonable progress; appropriate options for remedial actions and resolutions; and timely closures.
 - Provide a complaint mechanism that does not require an employee to complain directly to their immediate supervisor. That complaint mechanism must include, but is not limited to including: provisions for direct communication, either orally or in writing, with a

designated company representative; and/or a complaint hotline; and/or access to an ombudsperson; and/or identification of DFEH and the United States Equal Employment Opportunity Commission as additional avenues for employees to lodge complaints.

- Instruct supervisors to report any complaints of misconduct to a designated company representative, such as a human resources manager, so that the company can try to resolve the claim internally. Employers with 50 or more employees are required to include this as a topic in mandated sexual harassment prevention training (see 2 CCR 11024).
 - Indicate that when the 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.
 - Make clear that employees shall not be retaliated against as a result of making a complaint or participating in an investigation.
- ④ Distribute its harassment, discrimination, and retaliation prevention policy by doing one or more of the following:
 - Printing the policy and providing a copy to employees with an acknowledgement form for employees to sign and return.
 - Sending the policy via email with an acknowledgment return form.
 - Posting the current version of the policy on a company intranet with a tracking system to ensure all employees have read and acknowledged receipt of the policy.
 - Discussing policies upon hire and/or during a new hire orientation session.
 - Using any other method that ensures employees received and understand the policy.
 - ⑤ If the employer's workforce at any facility or establishment contains ten percent or more of persons who speak a language other than English as their spoken language, that employer shall translate the harassment, discrimination, and retaliation policy into every language spoken by at least ten percent of the workforce.
 - ⑥ In addition, employers who do business in California and employ 50 or more part-time or full-time employees must provide at least two hours of sexual harassment training every two years to each supervisory employee and to all new supervisory employees within six months of their assumption of a supervisory position.

CIVIL REMEDIES

- 1 *Damages for emotional distress from each employer or person in violation of the law*
- 2 *Hiring or reinstatement*
- 3 *Back pay or promotion*
- 4 *Changes in the policies or practices of the employer*



SEXUAL HARASSMENT INCLUDES MANY FORMS OF OFFENSIVE BEHAVIORS

BEHAVIORS THAT MAY BE SEXUAL HARASSMENT:

- 1 *Unwanted sexual advances*
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THE MISSION OF THE DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING IS TO PROTECT THE PEOPLE OF CALIFORNIA FROM UNLAWFUL DISCRIMINATION IN EMPLOYMENT, HOUSING AND PUBLIC ACCOMMODATIONS, AND FROM THE PERPETRATION OF ACTS OF HATE VIOLENCE AND HUMAN TRAFFICKING.

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 - Instruct supervisors to report any complaints of misconduct to a designated company representative, such as a human resources

manager, so that the company can try to resolve the claim internally. Employers with 50 or more employees are required to include this as a topic in mandated sexual harassment prevention training (see 2 CCR 11024).

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