

DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING

# **DISCRIMINATION, HARASSMENT, AND RETALIATION PREVENTION**

**SAMPLE EEO POLICY**

MAY 18, 2022



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# POLICY: DISCRIMINATION, HARASSMENT, AND RETALIATION PREVENTION

## POLICY

**Name of Organization** is committed to providing a professional work environment free from discrimination and harassment, including discrimination and harassment based on a protected characteristic, and an environment free from retaliation for participating in any protected activity covered by this policy.

**Name of Organization** is committed to providing equal employment opportunities to all employees and applicants for employment. Accordingly, we have adopted and maintain this anti-discrimination policy designed to encourage professional and respectful behavior and prevent discriminatory and harassing conduct in our workplace. We will implement appropriate corrective action(s), up to and including formal discipline, in response to misconduct – including violations of **Name of Organization’s** anti-discrimination policy – even if the violation does not rise to the level of unlawful conduct.

**Name of Organization** prohibits discrimination and harassment based on the following characteristics: race, color, caste, religion, religious creed (including religious dress and grooming practices), national origin, ancestry, citizenship, physical or mental disability,<sup>1</sup> medical condition (including cancer and genetic conditions), genetic information, marital status, sex (including pregnancy, childbirth, breastfeeding, or related medical conditions), gender, gender identity, gender expression, age (40 years and over), sexual orientation, veteran or military status, medical leave or other types of protected leave (requesting or approved for leave under the Family and Medical Leave Act or the California Family Rights Act), domestic violence victim status, political affiliation, and any other characteristic protected by state or federal anti-discrimination law covering employment. These categories are defined according to Government Code section 12920. In addition, **Name of Organization** prohibits retaliation against a person who engages in activities protected under this policy. Reporting, or assisting in reporting, suspected violations of this policy and cooperating in investigations or proceedings arising out of a violation of this policy are protected activities under this policy.

All **Name of Organization** employees are expected to assume responsibility for maintaining a work environment that is free from discrimination, harassment, and retaliation. Employees are encouraged to promptly report conduct that they believe violates this policy so that we have an opportunity to address and resolve any concerns. Managers and supervisors are required to promptly report conduct

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<sup>1</sup> **Name of Organization** recognizes and supports the obligation to reasonably accommodate employees with disabilities or religious beliefs or practices to allow those employees to perform the essential functions of their jobs. See the **Name of Organization** Reasonable Accommodation Policy. If an employee believes they need a reasonable accommodation based on disability or a religious belief or practice, the employee should discuss the matter with their supervisor or the human resources unit.

that they believe violates this policy. We are committed to responding to alleged violations of this policy in a timely and fair manner and to taking appropriate action aimed at ending the prohibited conduct.

## SCOPE OF PROTECTION

This policy applies to **Name of Organization** applicants and employees (co-workers, supervisors and managers). As used in this policy, the term “employee” includes contractors and volunteers in our workplace. In addition, this policy extends to conduct with a connection to an employee’s work, even when the conduct takes place away from **Name of Organization’s** premises, such as a business trip or business-related social function.

## APPLICANT/EMPLOYEE RIGHTS

- The right to a discrimination, harassment, and retaliation-free work environment.
- The right to file a complaint of discrimination, harassment, or retaliation. Employees are encouraged to report inappropriate conduct immediately and, whenever possible, to put the complaint or concern in writing.
- The right to a full, impartial and prompt investigation by **Name of Organization** representative or designee into allegations of conduct that would violate this policy.
- The right to be timely informed of appropriate information related to the outcome of an investigation either as a complainant or a respondent in the investigation.
- The right to be represented by a person of the complainant’s choosing at each and all steps of the complaint process.
- The right to be free from retaliation or reprisal after filing a complaint or participating in the complaint process.
- The right to file a complaint directly with the California Department of Fair Employment and Housing, the federal Equal Employment Opportunity Commission or other appropriate state or federal agencies, or to file a civil action in the appropriate court.

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## CONDUCT PROHIBITED BY THIS POLICY / DEFINITIONS

### DISCRIMINATION:

As used in this policy, discrimination is defined as the unequal treatment of an employee or applicant in any aspect of employment, based solely or in part on the employee’s, or applicant’s, protected characteristic, including their perceived protected characteristic. Protected categories include: race, color, caste, religion, religious creed (including religious dress and grooming practices), national origin,

ancestry, citizenship, physical or mental disability, medical condition, genetic information, marital status, sex (including pregnancy, childbirth, breastfeeding, or related medical conditions), gender, gender identity, gender expression, age (40 years and over), sexual orientation, veteran and/or military status, protected medical leaves (requesting or approved for leave under the Family and Medical Leave Act or the California Family Rights Act), domestic violence victim status, political affiliation, and any other characteristic protected by state or federal anti-discrimination law covering employment. The categories are defined according to Government Code section 12920. Discrimination includes unequal treatment based upon the employee's or applicant's association with a member of these protected classes.

Discrimination may include but is not necessarily limited to: hostile or demeaning behavior towards applicants or employees because of their protected characteristic; allowing the applicant's or employee's protected characteristic to be a factor in hiring, promotion, compensation or other employment related decisions unless otherwise permitted by applicable law<sup>2</sup>, and providing unwarranted assistance or withholding work-related assistance, cooperation, and/or information to applicants or employees because of their protected characteristic.

## HARASSMENT:

As used in this policy, harassment is defined as unwelcome disrespectful or unprofessional conduct, including disrespectful or unprofessional conduct based on any of the protected characteristics listed above. Harassment can be verbal (such as slurs, jokes, insults, epithets, gestures, or teasing), visual (such as the posting or distribution of offensive posters, symbols, cartoons, drawings, computer displays, or emails), or physical conduct (such as physically threatening another person, blocking someone's way, or making physical contact in an unwelcome manner).

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<sup>2</sup> For example, veteran's preference as permitted under [Government Code 18973.1](#).

## SEXUAL HARASSMENT:

As used in this policy, sexual harassment is defined harassment based on sex (including pregnancy, childbirth, breastfeeding, or related medical conditions), gender, gender identity, gender expression or sexual orientation. It may include all of the actions described above as harassment, as well as other unwelcome sex-based conduct, such as unwelcome or unsolicited sexual advances, requests for sexual favors, conversations regarding sexual activities, or other verbal or physical conduct of a sexual nature. Sexually harassing conduct need not be of a sexual nature or be motivated by sexual desire. It may include situations that began as reciprocal relationships, but that later cease to be reciprocal.

Sexual harassment is generally categorized into two types:

### 1. *Quid Pro Quo Sexual Harassment ("this for that")*

- Submission to sexual conduct (or other harassing conduct) is made explicitly or implicitly a term or condition of an individual's employment.
- Submission to or rejection of the conduct by an employee is used as the basis for employment decisions affecting the employee.

### 2. *Hostile Work Environment Sexual Harassment*

- Unwelcome conduct on the basis of sex, gender, gender identity, gender expression, or sexual orientation by any person in the workplace that unreasonably interferes with an employee's work performance and/or creates an intimidating, hostile or otherwise offensive working environment. When unwelcome, examples include:
  - o Sexual advances, flirtation, teasing, sexually suggestive or obscene letters, invitations, notes, emails, voicemails or gifts.
  - o Sex, gender or sexual orientation-related comments, slurs, jokes, remarks, or epithets.
  - o Leering, obscene, or vulgar gestures or making sexual gestures.
  - o Displaying or distributing sexually suggestive or derogatory objects, pictures, cartoons, or posters.
  - o Impeding or blocking movement, touching, or assaulting others.
  - o Reprisals or threats after a negative response to sexual advances.
  - o Conduct or comments consistently targeted at one gender, even if the content is not sexual.

## RETALIATION:

As used in this policy retaliation is defined as any adverse employment action taken against an applicant or employee because that person engaged in activity protected under this policy or reasonably thought to be protected under this policy. Protected activities may include, but are not limited to, reporting or assisting in reporting suspected violations of this policy and/or cooperating in investigations or proceedings arising out of a violation of this policy.

Adverse employment action is conduct or an action that materially affects the terms and conditions of the applicant's or employee's employment status or is reasonably likely to deter the person from engaging in protected activity. Even actions that do not result in a direct loss of compensation or in termination may be regarded as an adverse employment action when considered in the totality of the circumstances.

Examples of retaliation under this policy include, but are not limited to, demotion; suspension; reduction in pay; denial of a merit salary increase; failure to hire or consider for hire; refusing to promote or consider for promotion because of reporting a violation of this policy; harassing another employee for filing a complaint; denying employment opportunities because of making a complaint or for cooperating in an investigation; changing someone's work assignments for identifying harassment or other forms of discrimination in the workplace; treating people differently such as denying an accommodation; or not talking to an employee when otherwise required by job duties; or excluding the employee from job-related activities because of engagement in activities protected under this policy.

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## TRAINING REQUIREMENTS

Every two years, all employees must take **DFEH's online** Sexual Harassment Prevention training aimed at increasing their understanding of and preventing workplace sexual harassment (including harassment on the basis of sexual orientation, gender identity, and gender expression) and their role in creating an underlying culture of mutual respect in our workplace. Specific components of the training include how to promptly and effectively respond to sexual harassment when it occurs, the effects of abusive conduct in the workplace, and ways to appropriately intervene if one witnesses behavior that is not in keeping with this policy.

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## ADDRESSING AND REPORTING VIOLATIONS OF THIS POLICY

Any employee or applicant who experiences or witnesses behavior that they believe violates this policy is encouraged to immediately tell the offending individual that the behavior is inappropriate and, if they feel comfortable doing so, to tell the offending individual to stop the behavior. The applicant or employee should also immediately report the alleged violation to his/her supervisor, manager or the EEO Officer. There is no chain of command when contacting the EEO Officer; an individual does not need supervisor or manager approval to do this. If the alleged offender is the employee's supervisor or manager, the employee should report the conduct to any other supervisor, manager or the EEO Officer. A complaint may be brought forward verbally or in writing. Written complaints can be made using the **Name of Organization** EEO Complaint Form (attached to this policy).

Supervisors or managers who learn of any potential violation of this policy are required to immediately report the matter to the EEO Officer, and must follow that officer's instructions as to how best to proceed.

**Name of Organization** will promptly look into the facts and circumstances of any alleged violation, as appropriate. Even in the absence of a formal complaint, **Name of Organization** may initiate an investigation where it has reason to believe that conduct that violates this policy has occurred. Moreover, even where a complainant conveys a request to withdraw their initial formal complaint, **Name of Organization** may continue the investigation to ensure that the workplace is free from discrimination, harassment and retaliation. Anonymous complaints will also be investigated. The method will depend on the details provided in the anonymous complaint. If the complaint is sufficiently detailed, the investigation may be able to proceed in the same manner as any other complaint. If the information is more general, **Name of Organization** may need to do an environmental assessment or survey to try to determine if misconduct has occurred. All investigations will be fair, impartial, timely, and completed by qualified personnel.

To the extent possible, **Name of Organization** will endeavor to keep the reporting of the applicant or employee's concerns confidential; however, complete confidentiality cannot be guaranteed when it interferes with **Name of Organization's** ability to fulfill its obligations under this policy or any applicable law or order. All employees are required to cooperate fully with any investigation. This includes, but is not limited to, maintaining an appropriate level of discretion regarding the investigation and disclosing any and all information that may be pertinent to the investigation. Upon completion of the investigation, if misconduct is substantiated, **Name of Organization** will take appropriate corrective and preventive action calculated to end the conduct up to and including formal discipline where warranted.

Contact information for **Name of Organization's** EEO Officer is:

**[Insert name and contact info here]**

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## **FILING OF COMPLAINTS WITH OTHER JURISDICTIONS**

Employees and applicants may also file formal complaints of discrimination, harassment, or retaliation with the agencies listed below. Individuals who wish to pursue filing with these agencies should contact them directly to obtain further information about their processes and time limits.

### **CALIFORNIA DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING**

2218 Kausen Drive, Suite 100  
Elk Grove, CA 95758  
(800) 884-1684 (voice), (800) 700-2320 (TTY) or California's Relay Service at 711  
[contact.center@dfeh.ca.gov](mailto:contact.center@dfeh.ca.gov)  
[www.dfeh.ca.gov](http://www.dfeh.ca.gov)

### **U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION**

450 Golden Gate Avenue 5 West,  
P.O Box 36025  
San Francisco, CA 94102  
1 (800)669-4000  
1 (800) 669-6820 (TTY)  
1 (844) 234-5122 (ASL Video Phone)  
[www.eeoc.gov/employees](http://www.eeoc.gov/employees)

### **STATE PERSONNEL BOARD APPEALS DIVISION**

801 Capitol Mall  
Sacramento, CA 95814  
(916) 653-0799 or TDD Line (916) 653-1498 (TDD)  
[www.spb.ca.gov](http://www.spb.ca.gov)

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## **CORRECTIVE ACTION GUIDELINES**

**Name of Organization** will take appropriate corrective action(s) up to and including formal discipline against any employee(s) when an investigation has found that misconduct occurred. Such corrective action(s) may include, but are not limited to, letters of reprimand, suspension, demotion, or termination. Additionally, depending on the nature of the violation, civil liability could be imposed on the violator as well as **Name of Organization**.

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**NAME OF ORGANIZATION DISCRIMINATION, HARASSMENT, AND RETALIATION  
PREVENTION POLICY COMPLAINT FORM**

COMPLAINANT INFORMATION

NAME:

DIVISION / UNIT:

OFFICE LOCATION:

WORK PHONE:

IMMEDIATE SUPERVISOR:

Please describe the conduct that you believe violates the Discrimination, Harassment and Retaliation Prevention Policy. In your narrative, describe: (1) What happened to you; (2) Why you believe you are being discriminated, harassed, or retaliated against, including the reason or evidence you have to support your belief, and; (3) When the acts of discrimination, harassment, or retaliation occurred (attach additional pages if needed). If you require assistance with completing this form as a reasonable accommodation, please contact the EEO officer.

PERSON(S) ALLEGED TO HAVE VIOLATED THE POLICY

**Person #1 - Name:**                      **Classification:**                      **Work Location:**

**Person #2 - Name:**                      **Classification:**                      **Work Location:**

**Person #3 - Name:**                      **Classification:**                      **Work Location:**

PERSON(S) WITH INFORMATION/KNOWLEDGE OF THE ALLEGED INCIDENTS

**Witness Name:**                      **Classification:**                      **Work Location:**

**Witness Name:**                      **Classification:**                      **Work Location:**

**Witness Name:**                      **Classification:**                      **Work Location:**

HAVE YOU COMPLAINED TO ANYONE AT NAME OF ORGANIZATION ABOUT THIS MATTER?

If yes, explain the situation. When did you complain, to whom, and what was the result?

*Please submit to the Name of Organization Equal Employment Opportunity Officer:*

**[Insert name and contact info here]**