



HR Check-in: Getting Reacquainted with Harassment/Discrimination Laws



Employers must take all reasonable steps to prevent discrimination and harassment from occurring.

Protected Classes - Examples

- Age
- Genetic information
- Marital status
- Medical condition (including cancer/genetic characteristics) or AIDS/HIV status
- Mental or physical disability
- Race and color
- Religion or Creed
- National origin and ancestry,
- Pregnancy and perceived pregnancy
- Sex, including:
 - Pregnancy, childbirth, breastfeeding and related medical conditions
 - Gender identity or gender expression, transgender
- Sexual orientation
- Military and Veteran status

Mandatory Harassment Prevention

- Required for employers with 5+ employees.
- Training must be completed for all current employees by 12/21/2020.
- New hires:
 - Non-supervisory – within 6 months of hire (1 hour).
 - Supervisory – within 6 months of hire/promotion (2 hours).
 - Training must occur every 2 years.
- Temporary Employees:
 - Within 30 calendar days of hire or 100 hours of work (whichever occurs first).

Retain Training Records

- Date of training.
- Names of attendees.
- Names of trainers or training providers
- Types of training (e.g., classroom, webinar, e-learning).
- Sign-in sheet.
- Copies of all written training materials (e.g., company policies and procedures, handouts, exercises, quizzes).
- Copies of all recorded training materials (e.g., videos, webinars).
- Copies of all written questions received and all written responses or guidance provided during any webinar or e-learning.
- Copies of any certificates provided (certificate of completion or certificate of attendance).

Harassment Prevention Policy

1. Is in writing;
2. Lists all current protected categories covered under the Act;
3. Indicates that the law prohibits coworkers and third parties, as well as supervisors and managers, with whom the employee comes into contact from engaging in conduct prohibited by the Act;
4. Creates a complaint process to ensure that complaints receive:
 - An employer's designation of confidentiality, to the extent possible;
 - A timely response;
 - Impartial and timely investigations by qualified employees;
 - Documentation and tracking for reasonable progress;
 - Appropriate options for remedial actions and resolutions; and
 - Timely closures.

Harassment Prevention Policy

5. Provides a complaint mechanism that does not require an employee to complain directly to his or her immediate supervisor, including, but not limited to, the following:
 - Direct communication, either orally or in writing, with a designated company representative, such as a human resources manager or other supervisor; and/or
 - A complaint hotline; and/or
 - Identification of the Department and the U.S. Equal Employment Opportunity Commission (EEOC) as additional avenues for employees to lodge complaints.
6. Instructs supervisors to report any complaints of misconduct to a designated company representative, such as a human resources manager, so the company can try to resolve the claim internally.

Harassment Prevention Policy

7. 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.
8. States that confidentiality will be kept by the employer to the extent possible, but not indicate that the investigation will be completely confidential.
9. Indicates that if at the end of the investigation misconduct is found, appropriate remedial measures shall be taken.
10. Makes clear that employees shall not be exposed to retaliation as a result of lodging a complaint or participating in any workplace investigation.

Retaliation is Prohibited

- Employees may not retaliate.
- An investigation must be conducted for all complaints.
- Disciplinary action up to and including termination of employment for violations of this policy.

How to Distribute the Policy

- Use one or more of the following methods:
 - Printed in hard copy, along with a printed acknowledgement form.
 - E-mailed with an acknowledgement form.
 - Posted on the organization's intranet, and employees are sent the link and some type of tracking system to ensure employees have read and acknowledged receipt.
 - Discussed in person during new-hire orientation.
 - Handled in any other manner that ensures receipt of policy and that employees understand it.
- Employers should distribute and discuss the discrimination and harassment prevention policy periodically and in multiple ways with employees to ensure they fully understand and are reminded of their rights and responsibilities.

**Redistribute your Harassment
Prevention Policy and obtain a new
Acknowledgement form as part of your
training to return to work.**

Employers must post the
*California Law Prohibits Workplace
Discrimination and
Harassment and Transgender Rights in
the Workplace* posters.

Ensure that every supervisor takes complaints seriously and they are not ignored and reporting is not delayed or minimized.

Conducting an Investigation

- **Must be conducted by someone who is qualified.**
- **Must be timely and thorough.**
- **Keep the information confidential to the extent possible.**
- **Remind all involved parties that retaliation is prohibited.**
- **Determine what can/cannot be corroborated.**
- **Determine outcome and any disciplinary action.**
- **Follow-up for closure.**
- **Document the timeline and investigation.**

**Having conversations related to
current events, requires
a skilled facilitator.**

Q&A



562.597.4932

www.theworksconsulting.com

Instagram: @AnneLaguzza

LinkedIn: AnneLaguzza

Facebook: @TheWorksHR