

**Essential Elements of a Compliant
Harassment, Discrimination, and Retaliation Prevention Policy**

- Develop a written “harassment, discrimination, and retaliation prevention policy¹” that:
 - Lists all current protected categories under the Fair Employment Housing Act (FEHA)
 - Race
 - Religious creed (includes dress and grooming practices and encompasses all aspects of religious belief, observance and practice)
 - Color
 - National origin (includes discrimination on the basis of drivers' licenses provided to undocumented persons)
 - Ancestry
 - Physical disability
 - Mental disability
 - Medical condition
 - Genetic information
 - Marital status (includes domestic partners)
 - Sex (includes pregnancy, childbirth, breastfeeding, or related medical conditions)
 - Gender
 - Gender identity
 - Gender expression
 - Age (40+)
 - Sexual orientation
 - Military and veteran status
 - States the law prohibits coworkers, third parties, supervisors and managers from engaging in conduct prohibited by the FEHA
 - Creates process by which employees can complain that includes:
 - Designation of confidentiality “to the extent possible”
 - Does not require employee to complain directly to his/her immediate supervisor
 - Promises timely response
 - Impartial and timely investigation by qualified personnel
 - Documentation and tracking of the investigation for reasonable progress
 - Appropriate options for remedial actions and resolutions
 - Timely closures

¹ If 10% or more persons speak a language other than English as their spoken language, must translate the policy into each language spoken.

- Complaint mechanism must include access to at least one of the following:
 - Direct communication (orally or in writing) with a designated company representative such as HR, EEO officer, or other supervisor;
 - Complaint hotline
 - Ombudsperson
 - Identification of the Department of Fair Employment and Housing (DFEH) and the Equal Employment Opportunity Commission (EEOC) as additional avenues for employee to lodge complaint
- Instructs supervisors to report “any complaints of misconduct” to a designated company representative so that company can try to resolve claim internally
(Note, employers with 5 or more must include this in mandatory SH training)
- Statement that when 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 to the extent possible, but cannot guarantee complete confidentiality
- Indicates if misconduct is found, appropriate remedial measures will be taken
- States that employees shall not be exposed to retaliation as a result of lodging a complaint or participating in an investigation
- Disseminate the policy in at least one of the following ways:
 - Print and provide copy to all employees with an acknowledgment to sign and return;
 - Send policy via email with an acknowledgment return form;
 - Post current versions of the policy on a company intranet with a tracking system to ensure all employees have read and acknowledged receipt of the policy;
 - Discuss the policy upon hire and/or during new hire orientation;
 - Any other way that ensures employees receive and understand the policy.