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Written Harassment and Discrimination Policies

The California Department of Fair Employment and Housing (DFEH) represents employees who feel that they have been discriminated against based on disability (including pregnancy), illness, gender, age, ethnicity, or sexual orientation. According to DFEH law (California Code of Regulations, Title 2, Section 11023), employers have an affirmative duty to create a workplace environment that is free from employment practices prohibited by the Fair Employment and Housing Act (FEHA). Specific to subsection (b), California employers with five or more employees must have a written harassment, discrimination, and retaliation prevention policy that includes the following:

1. A list of all current protected categories covered under the FEHA. They include race, religious creed, color, national origin, ancestry, physical and/or mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, and military and veteran status.
2. A statement that 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 FEHA.
3. An adopted 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 personnel.
 - Documentation and tracking for reasonable progress.
 - Appropriate options for remedial actions and resolutions.
 - Timely closures.
4. The provision of a complaint mechanism that does not require an employee to complain directly to his or her immediate supervisor. This mechanism can include, but is not limited to, the following:
 - Direct communication, either orally or in writing, with a designated company representative, such as a human resources manager, Equal Employment Opportunity officer, or other supervisor
 - A complaint hotline
 - Access to an ombudsperson
 - Identification of the department (Department of Fair Employment and Housing) and the U.S. Equal Employment Opportunity Commission as additional avenues for employees to lodge complaints
5. Instruction for 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. Employers with 50 or more employees are required to include this as a topic in mandated sexual harassment prevention training, pursuant to the California Code of Regulations, Title 2, Section 11024.
6. A statement 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.
7. A statement that confidentiality will be kept by the employer to the extent possible, but not indicate that the investigation will be completely confidential.
8. A statement that if at the end of the investigation misconduct is found, appropriate remedial measures shall be taken.
9. A declaration that makes clear that employees shall not be exposed to retaliation as a result of lodging a complaint or participating in any workplace investigation.



The law also requires that employers follow steps to ensure that employees are aware of and have access to the policy. Dissemination of the policy must include one or more of the following methods:

- Printing and providing a copy of the policy to all employees with an acknowledgment form for the employee to sign and return.
- Sending the policy via e-mail with an acknowledgment return form.
- Posting current versions of the policies on a company intranet with a tracking system ensuring all employees have read and acknowledged receipt of the policies.
- Discussing policies upon hire and/or during a new hire orientation session.
- Any other way that ensures employees receive and understand the policies.

Finally, the law requires that any employer whose workforce at any facility or establishment has 10 percent or more of employees who speak a language other than English as their spoken language must translate the policy into every language that qualifies.

For more information, access the California Code of Regulations, Title 2, Section 11023 at dfeh.ca.gov. ■

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